

NOTICE OF MEETING



CITY OF BRANSON

BOARD OF ALDERMEN

Regular Meeting – Tuesday, January 25, 2011 – 7:00 p.m.
Council Chambers – Branson City Hall – 110 W. Maddux

BRANSON BOARD OF ALDERMEN AGENDA

January 25, 2011

7:00 p.m.

**Meeting Called to Order
Pledge of Allegiance
Invocation – Jerry Adams
Roll Call**

PUBLIC COMMENT:

To speak during public comment, please sign the speaker sign-up sheet located at the front door of the council chambers prior to the start of the meeting.

CONSENT AGENDA:

- 1) Approval of Board of Aldermen Minutes:
 - a) January 6, 2011 Study Session**
 - b) January 11, 2011 Special Meeting**
 - c) January 11, 2011 Regular Meeting****
- 2) Acknowledge Receipt of Minutes:
 - a) Advisory Park Board meeting of November 16, 2011****
- 3) Final Reading of Bill No. 3891 approving the annexation of property located at 412 Owen Lane.**
- 4) Final Reading of Bill No. 3892 approving the annexation of property located at 101 Covered Bridge Drive.**
- 5) Final Reading of Bill No. 3893 approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System and authorizing the Mayor to execute the contract.**
- 6) Final Reading of Bill No. 3894 accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department and authorizing the mayor to execute the contract.**
- 7) Final Reading of Bill No. 3895 accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract.**

- 8) **Final Reading of Bill No. 3896 accepting the proposal of Custom Products Corporation pertaining to signage supplies and authorizing the Mayor to execute the contract.**
- 9) **Final Reading of Bill No. 3897 accepting the proposal of Ibis Tek Apparel LLC. pertaining to signage supplies and authorizing the Mayor to execute the contract.**
- 10) **Final Reading of Bill No. 3898 accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper and authorizing the Mayor to execute the contract.**

REGULAR:

- 11) **Final Reading of Bill No. 3881 amending Chapter 58 of the Branson Municipal Code pertaining to nuisance. (Postponed from the January 11, 2011 agenda)**
- 12) **First Reading of Substitute Bill No. 3899 amending Chapter 58 of the Branson Municipal Code pertaining to nuisance.**

[Powerpoint]
- 13) **First Reading of Bill No. 3900 amending Chapter 46, Section 46-555 of the Branson Municipal Code pertaining to containers.**
- 14) **Update by Lori Helle on year-end financial report.**
- 15) **First Reading of Bill No. 3901 approving a Planned Development amendment to PD 2005-003 Audubon Place and Covered Bridge Resort.**
- 16) **First Reading of Bill No. 3902 approving enrollment with Microsoft for Enterprise Licensing and authorizing the Mayor to execute the Enrollment Agreement.**

BID AWARDS:

- 17) **First Reading of Bill No. 3903 accepting the proposal of World Wide Technology pertaining to computer software for the City of Branson and authorizing the Mayor to execute the contract.**
- 18) **First Reading of Bill No. 3904 accepting the proposal of American Concrete Products pertaining to the concrete to be used at the Branson Lakeside RV Park and authorizing the Mayor to execute the contract.**

RESOLUTIONS:

- 19) **A Resolution approving the City of Branson's Legislative Agenda for the year 2011.**
- 20) **A Resolution adopting the Branson/Lakes Area Legislative Partnership's 2011 Legislative Priorities.**
- 21) **A Resolution supporting the display of the national motto "In God We Trust" at**

Branson City Hall.

MAYOR/CITY ALDERMEN/CITY ADMINISTRATOR'S REPORTS

ADJOURN

MINUTES

STUDY SESSION OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI January 6, 2011

LUNCH

The Board of Aldermen of the City of Branson, Missouri met for lunch in the Administrative Conference Room of the City Hall on January 6, 2011, at 12:00 p.m.

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met for a study session in the Municipal Courtroom of the City Hall on January 6, 2011, at 12:30 p.m.

Mayor Presley presiding, Rick Todd, Rick Davis, Sandra Williams, Cris Bohinc, Bob Simmons and Mike Booth present.

Also present from the City were: City Administrator Dean Kruithof, City Clerk Lisa Westfall, City Attorney William Duston, Public Works Director and City Engineer David Miller, Police Chief Carol McCullough, Planning and Development Director Jim Lawson, Fire Chief Carl Sparks, Information Technology Director D.J. Cline, Finance and Personnel Director Lori Helle, Economic Development Director Garrett Anderson and Utilities Director Mike Ray.

AGENDA

Administrator's Report.

Discussion of previous Study Session items.

Review of January 11, 2011 Agenda.

Discussion regarding 2011 Legislative Priorities.

Discussion with Preston Dunn, Jr. of In God We Trust ~ America, Inc.

Discussion with Dr. Lee McPheters regarding economic analysis of Branson Airport.

Discussion with Dr. Mike Hynes regarding the Branson Airport.

Mayor's Report.

Board of Aldermen requests for agenda items to be placed on future agendas.

ADJOURN

Mayor Presley asked for a motion to adjourn. Alderman Booth moved to adjourn, seconded by Alderman Todd. Voting aye: Todd, Davis, Williams, Bohinc, Simmons and Booth. Nays: none. Motion carried. Meeting adjourned at 2:28 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

MINUTES

SPECIAL MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI

January 11, 2011

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met for a special meeting in the Administrative Conference Room of Branson City Hall, Branson, Missouri on January 11, 2011, at 6:00 p.m. The following members were present:

Mayor Presley presiding, Mike Booth, Sandra Williams, Bob Simmons, Cris Bohinc and Rick Todd present. Absent: Rick Davis.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, and City Clerk Lisa Westfall.

EXECUTIVE SESSION

Mayor Presley entertained a motion to adjourn to a closed Executive Session. Alderman Bohinc moved to go into Closed Executive Session pursuant to 610.021.1 RSMo for litigation, 610.021.2 RSMo for real estate and 610.021.3 RSMo for personnel, seconded by Alderman Todd. Voting aye: Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Absent: Davis. Motion carried.

ADJOURN

At this time, Mayor Presley asked for a motion to adjourn. Alderman Williams moved to adjourn, seconded by Alderman Todd. Voting aye: Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Absent: Davis. Motion carried. Meeting adjourned at 6:04 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

MINUTES

THE REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI January 11, 2011

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on January 11, 2011, at 7:00 p.m. Mayor Presley called the meeting to order with the "Pledge of Allegiance" and Carl Sparks gave the invocation.

ROLL CALL

City Clerk Westfall called roll: Mayor Presley presiding, Rick Davis, Mike Booth, Sandra Williams, Bob Simmons, Cris Bohinc and Rick Todd present.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, City Clerk Lisa Westfall, Communications Director Jerry Adams, Information Technology Director D.J. Cline, Public Works Director & City Engineer David Miller, Fire Chief Carl Sparks, Economic Development Director Garrett Anderson, Planning and Development Director Jim Lawson, Police Chief Carroll McCullough, Finance and Personnel Director Lori Helle and Utilities Director Mike Ray.

PUBLIC COMMENT

Mayor Presley began the Public Comments section of the Board of Aldermen meeting by stating the Board would hear citizens that signed the Speaker's Sheet in the order they are listed on the sheet.

There were no speakers this evening.

CONSENT AGENDA

Mayor Presley asked if there were any citizens that had any items they wished to have removed from the Consent Agenda for further discussion. Hearing none, Mayor Presley asked if any member of the Board had any items they wished to have removed from the Consent Agenda. Alderman Williams moved to have item numbers 6 through 16 be removed from the Consent Agenda and placed as the first through eleventh items on the Regular Agenda. Mayor Presley asked City Clerk Westfall to read the items on the Consent Agenda as amended. City Clerk Westfall read the following Consent Agenda items by title.

Approval of the Board of Aldermen Minutes:

- a) December 9, 2010 Study Session
- b) December 14, 2010 Special Meeting
- c) December 14, 2010 Regular Meeting
- d) December 16, 2010 Special Meeting

Acknowledge Receipt of Minutes:

- a) Planning and Zoning Regular meeting of October 5, 2010
- b) Planning and Zoning Study Session of October 5, 2010
- c) Tree Board meeting of October 13, 2010
- d) Tree Board meeting of November 10, 2010

BILL NO. 3877

Ord. No. 2011-001 Amending the adopted 2011 Budget for the City of Branson, to adjust monies for the General Fund.

Final reading of Bill No. 3877, an ordinance amending the adopted 2011 Budget for the City of Branson, to adjust monies for the General Fund and authorizing the Mayor to execute the same was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-001 was duly enacted.

BILL NO. 3878

Ord. No. 2011-002 Amending Chapter 86 of the Branson Municipal Code pertaining to emergency and experimental regulations.

Final reading of Bill No. 3878, an ordinance amending Chapter 86 of the Branson Municipal Code pertaining to emergency and experimental regulations was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-002 was duly enacted.

BILL NO. 3879

Ord. No. 2011-003 Authorizing the Mayor to execute an amendment to the Professional Engineering Services Agreement with Delich, Roth, & Goodwillie, P.A. pertaining to the design of the Route 248 at US 65 Diverging Diamond Interchange Project.

Final reading of Bill No. 3879, an ordinance authorizing the Mayor to execute an amendment to the Professional Engineering Services Agreement with Delich, Roth, & Goodwillie, P.A. pertaining to the design of the Route 248 at US 65 Diverging Diamond Interchange Project and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-003 was duly enacted.

City Clerk Westfall stated that concludes the reading of the Consent Agenda. Mayor Presley opened the floor for a motion to approve all items on the Consent Agenda as amended. Alderman Todd moved to approve, seconded by Alderman Booth. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

EMPLOYEE OF THE MONTH

Alderman Bohinc presented Charlie Earnheart of the Parks and Recreation Department as the January Employee of the Month in recognition for his particular care and interest in the appearance of the landscaping at City Hall and many high profile areas in Branson. His dedication and work ethic is evident in the attractive appearance of the City flower beds which serve as the first impression for visitors to Branson.

REGULAR AGENDA

BILL NO. 3880

Ord. No. 2011-004

Amending Chapter 22 of the Branson Municipal Code pertaining to dangerous buildings.

Final Reading of Bill No. 3880, an ordinance amending Chapter 22 of the Branson Municipal Code pertaining to dangerous buildings was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Mayor Presley asked for a motion approving Bill No. 3880. Alderman Davis so moved, seconded by Alderman Bohinc. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Alderman Todd moved to amend Bill No. 3880 by removing the current language in Section 4, Emergency Powers Authorized, and replace it with "Emergency Powers Authorized. In any case where it reasonably appears that there is an immediate danger to the health, safety or welfare of any person, the director shall take measures to secure the structure and then take steps to vacate, repair or demolish the dangerous building or structure," seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding the amendment of Bill No. 3880. Hearing none, Mayor Presley asked for comments from the Board regarding the amendment. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Mayor Presley asked for a motion approving Bill No. 3880 as amended. Alderman Davis so moved, seconded by Alderman Bohinc. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-004 was duly enacted.

BILL NO. 3881

Postponed

Amending Chapter 58 of the Branson Municipal Code pertaining to nuisances.

Final Reading of Bill No. 3881, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to nuisances was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and Jim Lawson. Mayor Presley asked for a motion approving Bill No. 3881. Alderman Booth so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Mark Weisz, 386 Dalton Drive, Branson, Missouri, stated he appreciates the changes on some of the nuisance issues and thanked Jim Lawson for removing the language "unlicensed vehicles" from the code. Bob Huels, 500 W. Main Street, Branson Missouri, thanked the Board for the changes. Jerry Emory, 2350 Green Mountain Drive, Branson, Missouri, asked if Section 58-297 regarding portable storage units pertained to commercial property. Mayor Presley asked for comments from the Board. Discussion. Alderman Williams moved to postpone the final reading of Bill No. 3881 to the January 25, 2011 Regular Board of Aldermen meeting, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding the postponement. Hearing none, Mayor Presley asked for comments from the Board regarding the postponement. Discussion. Mayor Presley called for a vote on the postponement. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3882

Ord. No. 2011-006

Amending Chapter 58 of the Branson Municipal Code pertaining to graffiti.

Final Reading of Bill No. 3882, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to graffiti was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3882. Alderman Bohinc so moved, seconded by Alderman Simmons. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley

asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-006 was duly enacted.

BILL NO. 3883

Ord. No. 2011-007 Amending Chapter 34 of the Branson Municipal Code pertaining to administrative search warrants.

Final Reading of Bill No. 3883, an ordinance amending Chapter 34 of the Branson Municipal Code pertaining to administrative search warrants was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3883. Alderman Williams so moved, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-007 was duly enacted.

BILL NO. 3884

Ord. No. 2011-008 Amending Chapter 58 of the Branson Municipal Code pertaining to offenses against property.

Final Reading of Bill No. 3884, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to offenses against property was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3884. Alderman Bohinc moved to approve, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-008 was duly enacted.

BILL NO. 3885

Ord. No. 2011-009 Amending Chapter 10 of the Branson Municipal Code pertaining to public nuisances.

Final Reading of Bill No. 3885, an ordinance amending Chapter 10 of the Branson Municipal Code pertaining to public nuisances was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3885. Alderman Williams so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-009 was duly enacted.

BILL NO. 3886

Ord. No. 2011-010 Amending Chapter 26 of the Branson Municipal Code pertaining to inspections.

Final Reading of Bill No. 3886, an ordinance amending Chapter 26 of the Branson Municipal Code pertaining to inspections was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3886. Alderman Williams so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-010 was duly enacted.

BILL NO. 3887

Ord. No. 2011-011 Amending Chapter 22 of the Branson Municipal Code pertaining to International Property Maintenance Code.

Final Reading of Bill No. 3887, an ordinance amending Chapter 22 of the Branson Municipal Code pertaining to International Property Maintenance Code was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3887. Alderman Davis so moved, seconded by Alderman Simmons. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-011 was duly enacted.

BILL NO. 3888

Ord. No. 2011-012 Amending Chapter 38 of the Branson Municipal Code pertaining to International Fire Code.

Final Reading of Bill No. 3888, an ordinance amending Chapter 38 of the Branson Municipal Code pertaining to International Fire Code was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3888. Alderman Todd so moved, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-012 was duly enacted.

BILL NO. 3889

Ord. No. 2011-013 Amending Chapter 46 of the Branson Municipal Code pertaining to public health and sanitation.

Final Reading of Bill No. 3889, an ordinance amending Chapter 46 of the Branson Municipal Code pertaining to public health and sanitation was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3889. Alderman Bohinc so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-013 was duly enacted.

BILL NO. 3890

Ord. No. 2011-014 Amending Chapter 86 of the Branson Municipal Code pertaining to vehicles.

Final Reading of Bill No. 3890, an ordinance amending Chapter 86 of the Branson Municipal Code pertaining to vehicles was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving Bill No. 3890. Alderman Williams so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2011-014 was duly enacted.

BILL NO. 3868

Defeated Accepting the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities.

Final Reading of Bill No. 3868, an ordinance accepting the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract, was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof and Mike Ray. (This bill had already had a motion and second from a previous meeting and is ready for discussion and a vote.) Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Board of Aldermen

Mayor Presley asked for comments from the Board. Discussion. Voting aye: Todd. Nays: Davis, Booth, Williams, Simmons and Bohinc. Motion defeated.

BILL NO. 3891

Approving the annexation of 412 Owen Lane, Branson, Missouri.

Public Hearing and First Reading of Bill No. 3891, an ordinance approving the annexation of 412 Owen Lane, Branson, Missouri, was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley opened the public hearing and asked if anyone in the audience wished to speak in favor of or opposing this matter. Hearing none, Mayor Presley closed the public hearing. Mayor Presley asked for a motion approving Bill No. 3891. Alderman Williams so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3892

Approving the annexation of 101 Covered Bridge Drive, Branson, Missouri.

Public Hearing and First Reading of Bill No. 3892, an ordinance approving the annexation of 101 Covered Bridge Drive, Branson, Missouri, was read by title by City Clerk Westfall and a staff report was presented by Jim Lawson. Mayor Presley opened the public hearing and asked if anyone in the audience wished to speak in favor of or opposing this matter. Hearing none, Mayor Presley closed the public hearing. Mayor Presley asked for a motion approving Bill No. 3892. Alderman Davis so moved, seconded by Alderman Simmons. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3893

Approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System.

First Reading of Bill No. 3893, an ordinance approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and Mike Ray. Mayor Presley asked for a motion approving Bill No. 3893. Alderman Williams so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Jerry Emory, 236 Shepherd of the Hills Expressway, Branson, Missouri, asked if this would cover Water District Number 3 and mentioned his property in this area has been significantly higher than comparable properties in other parts of Branson. Mr. Emory asked if there will be a method of paying overcharges if any errors in billing are discovered. Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3894

Accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department.

First Reading of Bill No. 3894, an ordinance accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and Carol McCullough. Mayor Presley asked for a motion approving Bill No. 3894. Alderman Todd so

moved, seconded by Alderman Bohinc. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3895

Accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities.

First Reading of Bill No. 3895, an ordinance accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and Mike Ray. Mayor Presley asked for a motion approving Bill No. 3895. Alderman Simmons so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3896

Accepting the proposal of Custom Products Corporation pertaining to signage supplies.

First Reading of Bill No. 3896, an ordinance accepting the proposal of Custom Products Corporation pertaining to signage supplies and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and David Miller. Mayor Presley asked for a motion approving Bill No. 3896. Alderman Davis so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3897

Accepting the proposal of Ibis Tek Apparel LLC pertaining to signage supplies.

First Reading of Bill No. 3897, an ordinance accepting the proposal of Ibis Tek Apparel LLC pertaining to signage supplies and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and David Miller. Mayor Presley asked for a motion approving Bill No. 3897. Alderman Simmons so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3898

Accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper.

First Reading of Bill No. 3898, an ordinance accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof and David Miller. Mayor Presley asked for a motion approving Bill No. 3898. Alderman Bohinc so moved, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

**RESOLUTION NO.
2011-R001**

Consenting to Assignment of Lease and Deed Trust of Leasehold Estate and Security Agreement by Recreational Investments and Management, Inc. to Ozark Mountain Bank.

A Resolution consenting to Assignment of Lease and Deed Trust of Leasehold Estate and Security Agreement by Recreational Investments and Management, Inc. to Ozark Mountain Bank and authorizing the Mayor to execute the agreement was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Mayor Presley asked for a motion adopting the resolution. Alderman Todd moved to adopt, seconded by Alderman Simmons. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Mayor Presley called for the vote on the Resolution. Voting aye: Davis, Williams, Simmons, Bohinc and Todd. Nays: none. Abstain: Booth. Motion carried. Resolution No. 2011-R001 was adopted.

**RESOLUTION NO.
2011-R002**

Approving the City of Branson's Blue Access PPO Health Insurance Summary of Benefits.

A Resolution approving the City of Branson's Blue Access PPO Health Insurance Summary of Benefits was read by title by City Clerk Westfall and a staff report was presented by Administrator Kruithof. Mayor Presley asked for a motion adopting the resolution. Alderman Booth moved to adopt, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Mayor Presley called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Resolution No. 2011-R002 was adopted.

MAYOR/ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Bohinc reminded everyone of the Gong Show benefit for the Branson Senior Center Meals on Wheels.

Alderman Todd commented the eagle that flew over the stadium during the National College Football Championship was from the Dollywood Sanctuary.

Alderman Booth stated the Taney County Airport Board is not having a meeting this month, but stated they are doing well.

Administrator Kruithof thanked the Public Works department and emergency services for their work during the inclement weather. He informed the Board of the email he received from Steve Peet of the Branson Airport stating he will be here January 20th and inquired of the type of issues the Board would like to discuss. Administrator Kruithof said he told Mr. Peet he anticipated continuing the discussion from the January 6th Study Session regarding the two presentations that were made. Administrator Kruithof stated there will be discussion regarding the original passenger and revenue projections as well the actual passenger and revenue history, along with discussion regarding the original economic analysis assumptions and how \$8.24 per passenger was derived. Administrator Kruithof also informed Mr. Peet of the desire to discuss future projections of flights and revenue. Administrator Kruithof asked the Board if there were any other topics they would like for him to relay to Steve Peet that would be discussed at the January 20th meeting. Alderman Booth asked for discussion on the financial condition of the Branson Airport and thought it might be interesting to see a funds flow analysis between the previous year and this year. Alderman Todd commented it would be helpful to

see a projection of the next 3-5 years and to know how much money is spent on advertising by the airport. Alderman Simmons commented he would like to know Steve Peet's opinion as to why the original projection of 250,000 visitors for year one has not been attained and the contributing factors other than the economy. Alderman Davis commented he would like to have discussion on the airport's relationship with the Transportation Development District in regard to how the relationship has evolved since the contract has changed and how the relationship will appropriately develop in the future. Alderman Davis stated he would also like to discuss the same questions regarding Taney County. Mayor Presley stated it is public information that the airport had made payments on the bonds from money in the reserve and stated she would like to discuss how many times in the future they believe they will have to use money from the reserve and how long they would be allowed to do so.

Mayor Presley reminded everyone that City Hall will be closed January 17th in observance of Martin Luther King Jr.'s Birthday.

ADJOURN

Mayor Presley asked for a motion to adjourn. Alderman Bohinc moved to adjourn, seconded by Alderman Williams. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Meeting adjourned at 8:54 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

Park Board Minutes
November 16, 2010

Members Present: Joe McDowell, Candy Sullinger, Jeff Justus, Florence Parnell, Mica Farley, Bob Simmons, Kenny Garrison, and Kent Vanderpool

Members Absent: Julie Wolfe and Gabe Miller

Staff Present: Cindy Shook, Marsha Fulton

Kent Vanderpool made a motion to approve the Park Board minutes from October 19, 2010. Florence Parnell seconded the motion. All were in favor.

Business:

1. The meeting was called to order by Candy Sullinger with the first item on the agenda being the financial report dated September 30, 2010. Cindy opened this item by bringing everyone's attention to the campgrounds revenue, pointing out that while this year's revenues were down so were their expenses. Overall, the bottom line operating expense at the campground shows only a \$3,000.00 difference from last year at this same time. Additionally, Cindy pointed out that expenses in Administration were up slightly from last year and this category things like payroll, printing, organizations dues, etc. Cindy closed this item by stating overall she felt the report looked very good. With no additional questions or comments the board moved on to the next item on the agenda.
2. Next item on the agenda was the Parnell Park update. Cindy stated that since the last meeting the resurfacing of the tennis court had been completed. However, due to cold temperatures during the project, the company had informed her that there was a chance that some of the cracks may reopen. However, the company assured her that they would return in the spring if this does happen and additionally there was a one year warranty on their work. Cindy then informed the board that she had received an email from avid tennis player Al Dygert expressing how good the court looked. In conclusion of this item, Cindy reminded the board that she had budgeted \$5,000.00 again next year in the 2011 budget for continued improvements to the park.
3. The next item on the agenda was the 2011 special events and tournament calendar. Candy opened this item by stating that she was amazed at the special events calendar. Cindy thanked her and pointed out that the items in red are new next year and that we are really at maximum capacity and it would be difficult to add additional events to the calendars. Cindy then handed out the economic impact statement for attendance 2010 tournaments and special events, which totaled nearly \$8 million. She explained that she takes the total attendance multiplied by the number of days of the event, multiplied by average spending per day to get the economic impact. Bob Simmons asked if knew the distance the tournament participants traveled? Cindy said that the majority of the participants come from the mid-west, but then added that we do see visitors come from outside the mid-west to attend the national tournaments like the girl's World Series. Cindy then took this opportunity to share with the board that Branson was being considered for another AAU tournament for boy's grades 4th through 6th in 2011 or 2012. Kent Vanderpool asked about securing additional gymnasiums for events like this. Cindy stated that it is problematic and as there just aren't enough gymnasiums available for these large events and reminded the board that Ozark was used some last year. Kent stated that it seems like there was money being left on the table and that there is such a need for more space and we cannot provide it. Florence Parnell then pointed out that she noticed there was only one tennis tournament schedule. Cindy explained that Springfield really held a monopoly on tennis due to the large amount of courts they have in addition to their

indoor facility. Bob Simmons remarked that Cindy does a fine job representing the tournaments and needs of the Parks Department to the City Council and finance committee and communicates it in such a manner that everyone looks favorable towards it. Candy then took this opportunity to ask what had happened with the recent fee increase at City Council. Cindy explained that the actual fee increase had not been read by City Council yet. She stated that at the last council meeting what was taken to the Board of Alderman was to remove the park user fees from the codebook. Cindy explained that she had been concerned for some time and some of the park fees were codified and some were not and that she would like to see overall consistency. She contacted City Clerk Lisa Westfall and together they researched how other cities handle park user fees and discovered there is no consistent method. Cindy explained that being codified meant that the fees are printed in the city code book, and since the majority of people do not go to the code book to find our fees, it was recommended to no longer codify the fees. Changes in park fees would still progress in the same manner that they do now, a recommendation would come to the Board of Alderman through the Park Board, the only difference would be that they would not appear in the code book. Cindy continued by saying that the actual fee increase is scheduled for the next council meeting. Bob Simmons added that in regards to the fee increase he thought that there may be some discussion, but that he didn't foresee any big concerns in regards to passing the increase.

4. The next item on the agenda was discussion about the December board meeting. Candy opened this item by asking what the board would like to do in regards to the December 21 board meeting? Cindy responded by saying in the past a decision was made to move the meeting up a week, but now that City Council meetings are on Tuesday evenings, that would conflict with the December 14 council meeting. Candy again questioned if the Board wanted to move the meeting to another day or cancel due to the busy holiday season? Jeff Justus made a motion to cancel the December meeting. Kent Vanderpool seconded the motion. All were in favor with the exception of Kenny Garrison who abstained from voting.

5. Next on the agenda was the parks and recreation update. Cindy asked if there were any questions, there were none. Cindy then commented on what a success last month's Halloween event had been.

Member's Report:

1. Florence Parnell shared that she had recently visited the dog park in Lee's Summitt and that it was very nice and that there were a lot of dogs when she was there. She commented that they had a walking trail as well as agility items and water fountains for the dogs. She added that the only comment she heard was that the residents wish there restroom facilities.
2. Kent Vanderpool asked about the projects that the Boy Scouts are working on at the Owen homestead. Cindy shared the press release from the city that gave a brief overview as to what the Boy Scouts were working on as part of eagle scout projects. Cindy shared that the Scouts had completed other eagle scout projects with the Parks Department in the past and that she was looking forward to see what all they would accomplish.
3. Candy Sullinger then asked if there had been anything mentioned about Larry Wilson joining the park board? Cindy said she had confirmed with the Mayor that Larry attended the last meeting and Bob added that he had visited with Larry after the meeting and that had visited with the Mayor in regards to Larry being on the board.

Meeting adjourned 5:55 pm

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING THE ANNEXATION OF 412 OWEN LANE BRANSON, MISSOURI.

FIRST READING: JANUARY 11, 2011


FINAL READING: JANUARY 25, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This bill approves the annexation of 412 Owen Lane. The property contains approximately 7.42 acres more or less. Staff formally presented this petition to the governing body of the City on December 14, 2010. This is the public hearing and first reading of the ordinance. The January 11, 2011, date for the public hearing is in accordance with the RSMo requirement of no less than fourteen (14) days, nor more than sixty (60) days after the receipt of the petition by the Board of Aldermen.

The property is located within the Lakeside Forest Wilderness Area and has been referred to as the Owen enclave. It was purchased on August 31, 2010, by the City of Branson and is intended to become part of the Lakeside Forest Wilderness Area. The property is bordered by hand-laid stone walls and contains a few structures including the Owen's home, a bath house and chicken coops. Since the purchase of the property, dramatic changes have occurred in large part to four Boy Scouts (Aaron Hughes, Dallin Hughes, Keaton Knudsen, and Skylar Brown) volunteers and city staff to clean up the property. As a result of everyone's efforts, visitors will be able to experience the grounds as Lyle Owen and his family were able to and enjoy a 180 degree view of Lake Taneycomo and the College of the Ozarks' property.

Staff has reviewed the file and determined that this property is contiguous with existing City limits. They have also determined there will be minimal impact created from the annexation of this property.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:

N/A

A handwritten signature in black ink, appearing to be 'JA' with a large loop at the top.

ATTACHED INFORMATION:

- 1) Annexation Petition from Property Owner
- 2) Vicinity Map
- 3) Photographs of the Property
- 4) Departmental Comments

COPY

PETITION FROM PROPERTY OWNER REQUESTING ANNEXATION

Petition Requesting Annexation to the City of Branson

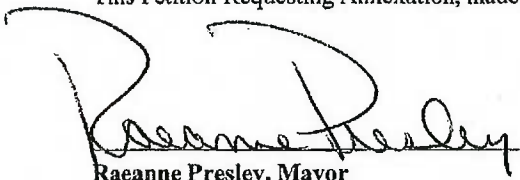
City of Branson, a city of the Fourth Class, State of Missouri (hereinafter "owner"), for its petition to the Board of Aldermen of the City of Branson state and allege as follows:

1. That it is the owner of all fee interests of record in the real estate in Taney County, Missouri, described as follows, to wit:

See Attached Exhibit 'A'

2. That said real estate is not now a part of any incorporated municipality.
3. That the said real estate is contiguous to the existing corporate limits of the City of Branson, Missouri.
4. That it requests that the said real estate to be annexed to, and be included within the corporate limits of, the City of Branson, Missouri, as authorized by the provisions of Section 71.012, RSMo.
5. That it requests the Board of Aldermen of the City of Branson to cause the required notice to be published and to conduct the public hearing required by law and to thereafter adopt an ordinance extending the limits of the City of Branson to include the above described real estate.


This Petition Requesting Annexation, made this 23rd day of November, 2010.


Raeanne Presley, Mayor
City of Branson, Missouri

ATTEST:


Lisa K. Westfall, City Clerk

APPROVED AS TO FORM:


William T. Duston, Assistant City Attorney



ACKNOWLEDGMENT OF CITY OFFICIAL

STATE OF MISSOURI)
) SS.
COUNTY OF TANEY)

On this 23rd day of November, 2010, before me personally appeared Racanne Presley, Mayor, to me known, and who being by me duly sworn, did say that they are said officials of the City of Branson, a city of the Fourth Class, State of Missouri, and that the seal affixed to the foregoing Petition For Annexation is the corporate seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said officials acknowledged said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.


Notary Public

My Commission Expires:

3/10/2013

[SEAL]

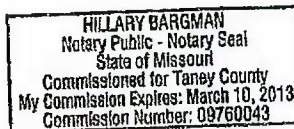


Exhibit 'A'
17-3.0-06-000-000-001.000
412 Owen Lane

A tract of land described as a portion of Lots 10, 11 and 12 of fractional Section 6, Township 22 North, Range 21 being more particularly described as follows:

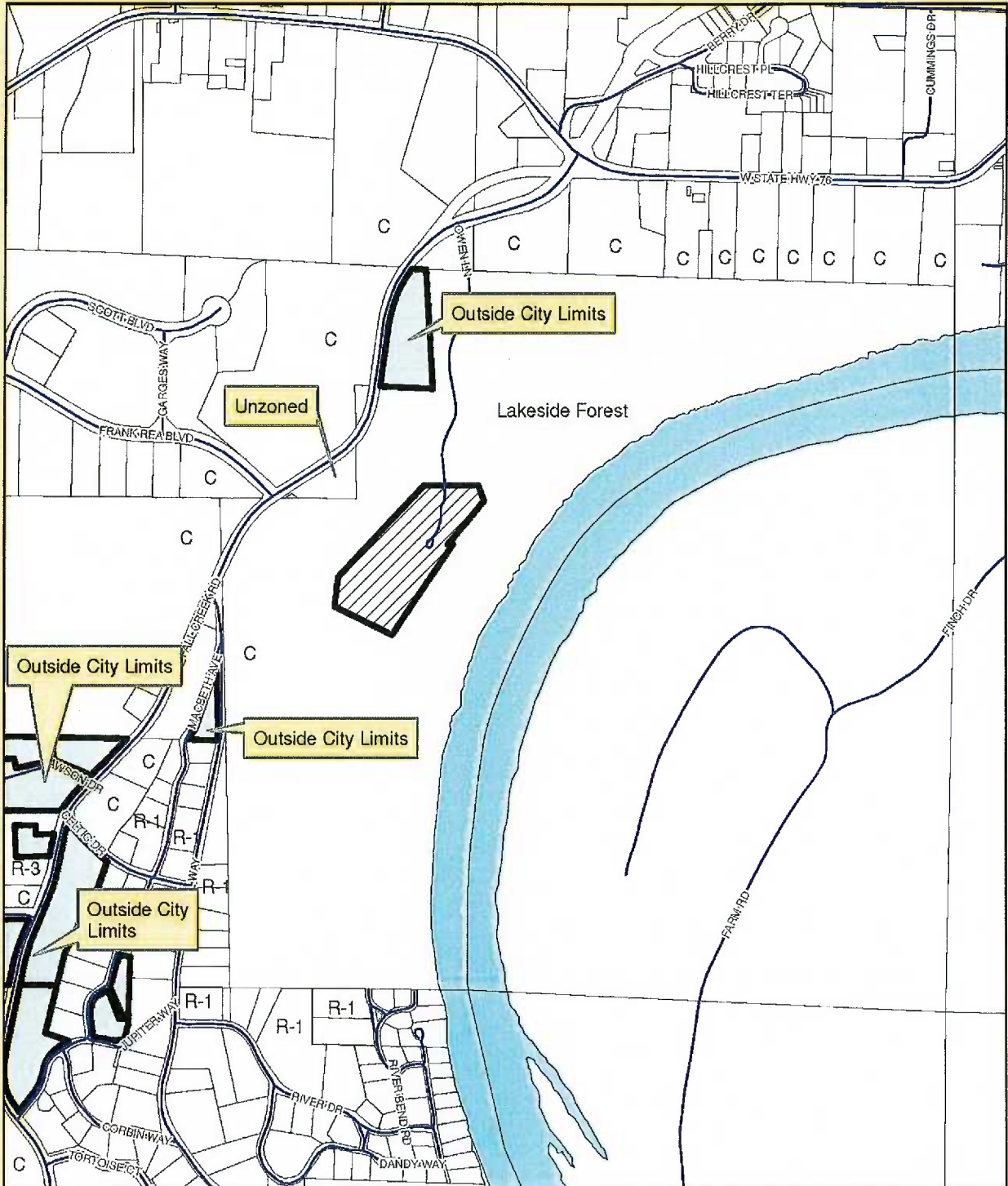
Commencing at an iron pin at the Northeast corner of Lot 10, of fractional Section 6, Township 22 North, Range 21 West, of the Fifth Principal Meridian; thence along the East line of said Lot 10, South 03°21'30" East, 1234.78 feet to the point of beginning; thence South 36°56'52" East, 97.60 feet; thence South 41°25'23" West, 288.18 feet; thence South 35°34'46" West, 605.98 feet; thence North 61°29'53" West, 350.00 feet; thence North 08°34'29" East, 163.57 feet; thence North 44°33'37" East, 659.00 feet; thence South 87°52'14" East, 305.60 feet to the point of beginning, containing 7.42 acres, more or less. Subject to all easements, covenants, reservations and restrictions of record and not of record.

VICINITY MAP
412 Owen Lane
City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
November 2010



0 105 210 420 630 840 Feet







Located in Planned

Department	Growth Area	Service Impact	Budget Impact			
Fire Department:	Yes <u>X</u>	None _____	None _____ Minimal <u>X</u>			
	No _____	Minimal <u>X</u> or	Significant _____ NA _____			
	or NA _____	Significant _____	If so, budgeted for 2010?			
			Yes		No	X
The Owens Property is within our 5 minute response model however it is in an area without fire hydrants. For now, water supply for fire suppression will be provided by Water Tender shuttle.						
Name:	T. Martin		Date:	12/14/ 2010		

Police Department:	Yes _____	None _____	None _____ Minimal _____			
	No _____	Minimal <u>X</u> or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
Minimal impact for PD						
Name:	C. W. McCullough		Date:	12/13/2010		

Engineering/ Public Works Department:	Yes _____	None <u>X</u>	None _____ Minimal _____			
	No _____	Minimal _____ or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No comments						
Name:	Keith Francis		Date:	12/13/2010		

Utilities Department:	Yes _____	None _____	None <u>X</u> Minimal _____			
	No _____	Minimal <u>X</u> or	Significant _____ NA _____			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No issues.						
Name:	Kendall Powell		Date:	12/16/10		

Finance Department:	Yes _____	None <u>X</u>	None _____ Minimal _____			
	No _____	Minimal _____ or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No comments						
Name:	Laura Cather		Date:	12/16/10		

Planning & Dev. Department:	Yes <u>X</u>	None <u>X</u>	None <u> </u> Minimal <u> </u>			
	No <u> </u>	Minimal <u> </u> or	Significant <u> </u> NA <u>X</u>			
	or NA <u> </u>	Significant <u> </u>	If so, budgeted for 2010?			
			Yes		No	
The addition of this property to the community, and to Lakeside Forest Wilderness Area, will be a benefit to all residents and visitors who visit it and enjoy its setting and beauty.						
Name:	Joel Hornickel		Date:	12/16/10		

BILL NO. 3891

ORDINANCE NO. _____

**AN ORDINANCE APPROVING THE ANNEXATION OF 412 OWEN LANE,
BRANSON, MISSOURI.**

WHEREAS, on November 23, 2010, a verified petition signed by all the owners of the real estate hereinafter described requesting annexation of said territory into the City of Branson, Missouri, was filed with the city clerk; and

WHEREAS, said real estate as hereinafter described is adjacent and contiguous to the present corporate limits of the City of Branson, Missouri; and,

WHEREAS, a public hearing concerning said matter was held at the City Hall in Branson, Missouri, at the hour of 7:00 pm on January 11, 2011; and,

WHEREAS, notice of said Public Hearing, was given by publication of notice thereof, on Wednesday, January 1, 2011, in the Branson Tri-Lakes News, a weekly newspaper of general circulation in the County of Taney, State of Missouri; and

WHEREAS, at said Public Hearing, all interested persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed annexation; and,

WHEREAS, no written objection to the proposed annexation was filed with the Board of Aldermen of the City of Branson, Missouri, within fourteen days after the public hearing; and

WHEREAS, the Board of Aldermen of the City of Branson, Missouri, does find and determine that said annexation is reasonable and necessary to the proper development of the city; and

WHEREAS, the city is able to furnish normal municipal services to said area within a reasonable time after annexation; now

**THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, AS FOLLOWS:**

Section 1: Pursuant to the provision of Section 71.012 RSMo the following described real estate is hereby annexed into the City of Branson, Missouri, to wit:

See Exhibit 'A'

Section 2: The boundaries of the City of Branson, Missouri, hereby are altered so as to encompass the above described tract of land lying adjacent and contiguous to the present corporate limits.

Section 3: The City Clerk of the City of Branson hereby is ordered to cause three certified copies of this Ordinance to be filed with the Taney County Clerk.

Section 4: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William Duston
City Attorney

Exhibit 'A'
17-3.0-06-000-000-001.000
412 Owen Lane

A tract of land described as a portion of Lots 10, 11 and 12 of fractional Section 6, Township 22 North, Range 21 being more particularly described as follows:

Commencing at an iron pin at the Northeast corner of Lot 10, of fractional Section 6, Township 22 North, Range 21 West, of the Fifth Principal Meridian; thence along the East line of said Lot 10, South 03°21'30" East, 1234.78 feet to the point of beginning; thence South 36°56'52" East, 97.60 feet; thence South 41°25'23" West, 288.18 feet; thence South 35°34'46" West, 605.98 feet; thence North 61°29'53" West, 350.00 feet; thence North 08°34'29" East, 163.57 feet; thence North 44°33'37" East, 659.00 feet; thence South 87°52'14" East, 305.60 feet to the point of beginning, containing 7.42 acres, more or less. Subject to all easements, covenants, reservations and restrictions of record and not of record.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING THE ANNEXATION OF 101 COVERED
BRIDGE DRIVE, BRANSON, MISSOURI.

FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This bill approves the annexation of 101 Covered Bridge Drive. The property contains approximately 0.69 acres more or less. Staff formally presented this petition to the governing body of the City on December 14, 2010. This is the public hearing and first reading of the ordinance. The January 11, 2011, date for the public hearing is in accordance with the RSMo requirement of no less than fourteen (14) days, nor more than sixty (60) days after the receipt of the petition by the Board of Aldermen.

This property is bordered by Shepherd of the Hills Expressway's right-of-way to the west, south and east. It is also bordered by the Audubon Place Planned Development and a ten (10) acre parcel zoned A agricultural to its north.

The applicant is proposing to add this parcel to the existing Audubon Place Planned Development so a feasible access point to the Covered Bridge RV Resort portion can be created along Shepherd of the Hills Expressway for resort guests. Additionally, as the resort's name alludes to, a covered bridge is proposed to be built within this property so access can be actually created. The amendment to the Audubon Place PD, including this request, received the Planning and Zoning Commission's recommendation for approval on January 4, 2011, and will be presented at the January 25, 2011, Board of Aldermen meeting.

Staff has reviewed the file and determined that this property is contiguous with existing City limits. They have also determined there will be minimal impact created from the annexation of this property.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:

N/A

**ATTACHED INFORMATION:**

- 1) Annexation Petition from Property Owner
- 2) Vicinity Map
- 3) Departmental Comments

COPY

PETITION FROM PROPERTY OWNER REQUESTING ANNEXATION

Petition Requesting Annexation to the City of Branson

Parcel ID # 07-7.0-25-000-000-002.029

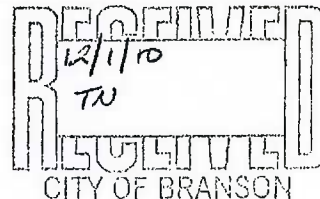
TrenCap Partners, a limited liability company of the State of Kentucky hereinafter referred to as the Petitioner, for its petition to the Board of Aldermen of the City of Branson state and allege as follows:

1. That it is the owners of all fee interests of record in the real estate in Taney County, Missouri, described as follows, to wit:

A tract of land being part of the South 1/2 of the Northeast 1/4 of Section 25, in Township 23 North – Range 22 West, Taney County, Missouri and being more particularly described as follows:

BEGINNING at the intersection of the right-of-way line of the relocated Shepherd of the Hills Parkway with the North line of said South 1/2 of the Northeast 1/4 of Section 25, said point being distant North 87° 59' 04" West, a distance of 1106.02 feet from the Northeast corner thereof and being the Northeast corner of property of SCB, L.C. as described in the deed recorded as document number 2007L52080 in the Taney County Records; thence along said right of way line of the relocated Shepherd of the Hills Parkway and the boundary lines of said SCB, L.C. property the following courses and distances: South 00° 12' 59" East, a distance of 49.54 feet, South 89° 44' 37" West, a distance of 326.34 feet, along a curve to the left having a radius of 720.00 feet, an arc length of 157.51 feet, a chord which bears South 83° 27' 48" West, a chord distance of 157.19 feet and North 12° 37' 21" West, a distance of 88.69 feet to the aforesaid North line of the South 1/2 of the Northeast 1/4 of Section 25, being also the Northwest corner of aforesaid SCB, L.C. property; thence South 87° 59' 04" East, a distance of 502.01 feet along said North line of SCB, L.C. property and the said North line of the South 1/2 of the Northeast 1/4 of Section 25 to the point of BEGINNING and containing 30,237 square feet or 0.69 acres more or less.

2. That said real estate is not now a part of any incorporated municipality.
3. That the said real estate is contiguous to the existing corporate limits of the City of Branson, Missouri.
4. That it request that the said real estate to be annexed to, and be included within the corporate limits of, the City of Branson, Missouri, as authorized by the provisions of Section 71.012, RSMo.
5. That it request the Board of Aldermen of the City of Branson to cause the required notice to be published and to conduct the public hearing required by law and to thereafter adopt an ordinance extending the limits of the City of Branson to include the above described real estate.



This Petition Requesting Annexation, made this 29th day of NOVEMBER, 2010.

A handwritten signature in black ink, appearing to read "J. Deut", is written over a horizontal line.

Managing Member

SS.

SS.

Barrel

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Notary Public

11-25-10

Page 3 of 4

ACKNOWLEDGMENT OF PROPERTY OWNER

STATE OF KENTUCKY)
) SS.
COUNTY OF FAYETTE)

On this 29th day of November, 2010, before me personally appeared Thetford H. Callahan, to me known, and who being by me duly sworn, did say that [he/she] is the managing member of TrenCap Partners, a limited liability company of the State of Kentucky, and that as such managing member [he/she] has the authority to execute the foregoing *Voluntary Petition For Annexation* on behalf of said limited liability company, and said managing member acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Notary Public

My Commission Expires:

11-25-14

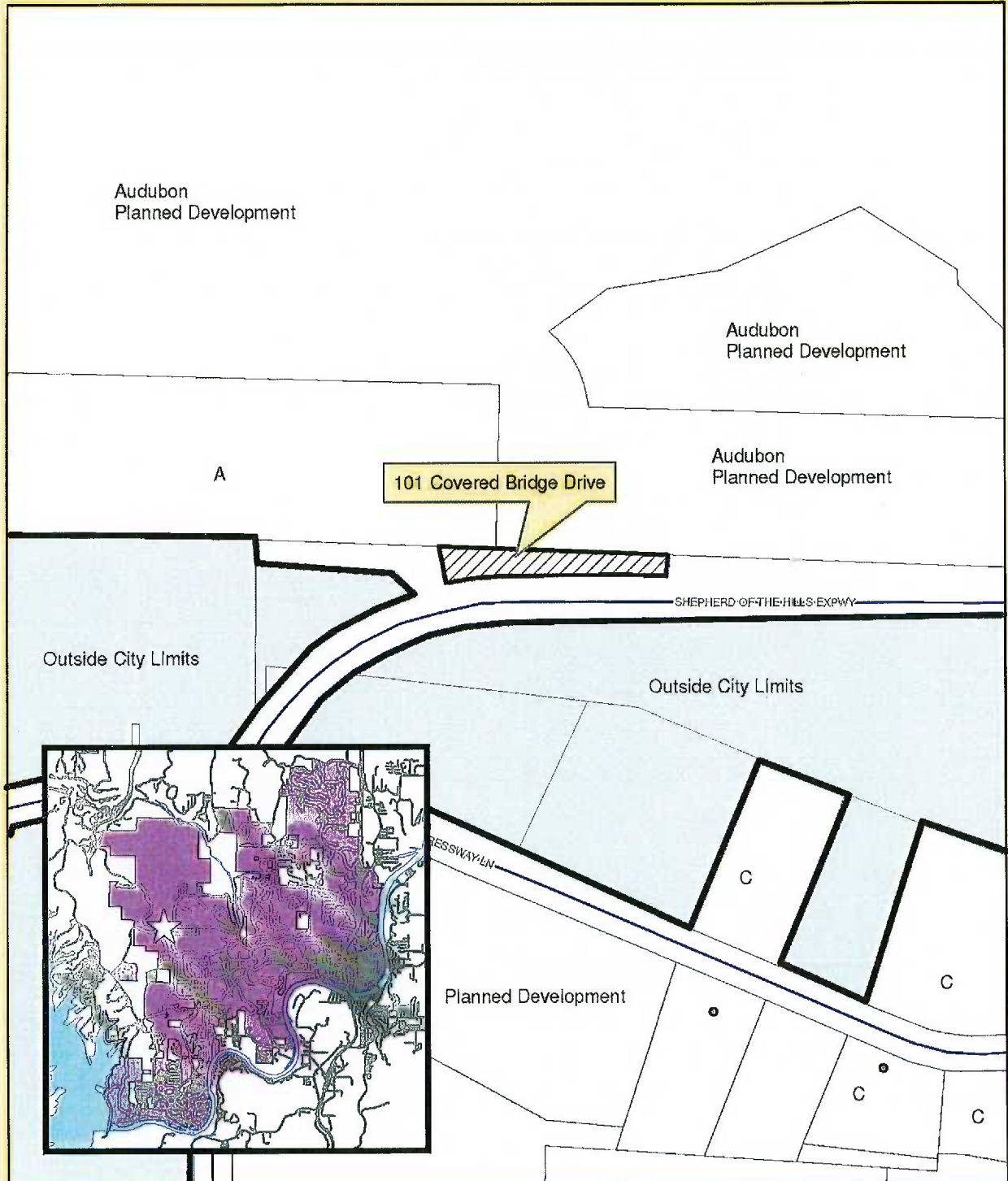
[SEAL]

VICINITY MAP
101 Covered Bridge Drive
City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
November 2010



0 40 80 160 240 320 Feet



Department	Located in Planned Growth Area	Service Impact	Budget Impact			
Fire Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None _____ Minimal <u>X</u> Significant _____ NA _____			
			If so, budgeted for 2010?			
			Yes		No	
The Covered Bridge Property is within our 5 minute response model and will provide minimal impact until the property develops.						
Name:	T. Martin	Date:	12/14/2010			

Police Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
Minimal Impact.						
Name:	C. W. McCullough	Date:	12/13/2010			

Engineering/ Public Works Department:	Yes _____ No _____ or NA <u>X</u>	None <u>X</u> Minimal _____ or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
No comment.						
Name:	Keith Francis	Date:	12/13/10			

Utilities Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None <u>X</u> Minimal _____ Significant _____ NA _____			
			If so, budgeted for 2010?			
			Yes		No	
No issues.						
Name:	Kendall Powell	Date:	12/16/10			

Finance Department:	Yes _____ No _____ or NA <u>X</u>	None <u>X</u> Minimal _____ or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
No comments.						
Name:	Laura Cather	Date:	12/16/10			

Planning & Dev. Department:	Yes <u>X</u> No _____ or NA _____	None _____ Minimal <u>X</u> or Significant _____	None <u>X</u> Minimal _____ Significant _____ NA _____				
			If so, budgeted for 2010?				
			Yes		No		
The annexation of this parcel is necessary for the development of the adjacent Planned Development in order to create the most feasible access. No other use is feasible for this parcel.							
Name:	Joel Hornickel		Date:	12/14/2010			

BILL NO. 3892

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE ANNEXATION OF 101 COVERED BRIDGE DRIVE, BRANSON, MISSOURI.

WHEREAS, on December 1, 2010, a verified petition signed by all the owners of the real estate hereinafter described requesting annexation of said territory into the City of Branson, Missouri, was filed with the city clerk; and

WHEREAS, said real estate as hereinafter described is adjacent and contiguous to the present corporate limits of the City of Branson, Missouri; and,

WHEREAS, a public hearing concerning said matter was held at the City Hall in Branson, Missouri, at the hour of 7:00 pm on January 11, 2011; and,

WHEREAS, notice of said Public Hearing, was given by publication of notice thereof, on Wednesday, January 1, 2011, in the Branson Tri-Lakes News, a weekly newspaper of general circulation in the County of Taney, State of Missouri; and

WHEREAS, at said Public Hearing, all interested persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed annexation; and,

WHEREAS, no written objection to the proposed annexation was filed with the Board of Aldermen of the City of Branson, Missouri within fourteen days after the public hearing; and

WHEREAS, the Board of Aldermen of the City of Branson, Missouri, does find and determine that said annexation is reasonable and necessary to the proper development of the city; and

WHEREAS, the city is able to furnish normal municipal services to said area within a reasonable time after annexation; now

THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: Pursuant to the provision of Section 71.012 RSMo the following described real estate is hereby annexed into the City of Branson, Missouri, to wit:

See Exhibit 'A'

Section 2: The boundaries of the City of Branson, Missouri, hereby are altered so as to encompass the above described tract of land lying adjacent and contiguous to the present corporate limits.

Section 3: The City Clerk of the City of Branson hereby is ordered to cause three certified copies of this Ordinance to be filed with the Taney County Clerk.

Section 4: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Read, this first time on this _____ day of _____, 2011.

Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William Duston
City Attorney

Exhibit 'A'

07-7.0-25-000-000-002.029

101 Covered Bridge Drive

A tract of land being part of the South 1/2 of the Northeast 1/4 of Section 25, in Township 23 North – Range 22 West, Taney County, Missouri and being more particularly described as follows:

BEGINNING at the intersection of the right-of-way line of the relocated Shepherd of the Hills Parkway with the North line of said South 1/2 of the Northeast 1/4 of Section 25, said point being distant North 87° 59' 04" West, a distance of 1106.02 feet from the Northeast corner thereof and being the Northeast corner of property of SCB, L.C. as described in the deed recorded as document number 2007L52080 in the Taney County Records; thence along said right of way line of the relocated Shepherd of the Hills Parkway and the boundary lines of said SCB, L.C. property the following courses and distances: South 00° 12' 59" East, a distance of 49.54 feet, South 89° 44' 37" West, a distance of 326.34 feet, along a curve to the left having a radius of 720.00 feet, an arc length of 157.51 feet, a chord which bears South 83° 27' 48" West, a chord distance of 157.19 feet and North 12° 37' 21" West, a distance of 88.69 feet to the aforesaid North line of the South 1/2 of the Northeast 1/4 of Section 25, being also the Northwest corner of aforesaid SCB, L.C. property; thence South 87° 59' 04" East, a distance of 502.01 feet along said North line of SCB, L.C. property and the said North line of the South 1/2 of the Northeast 1/4 of Section 25 to the point of BEGINNING and containing 30,237 square feet or 0.69 acres more or less.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AUTHORIZING AN AGREEMENT WITH TRI-STATES UTILITY FOR SEWER BILLING SERVICES OF CITY SEWER CUSTOMERS CONNECTED TO TRI-STATES WATER SYSTEM.

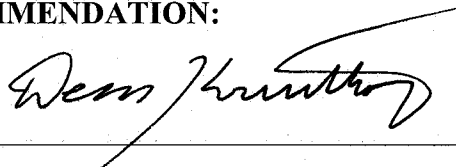
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: UTILITIES DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Tri-States Utility is willing to provide sewer billing services for the City of Branson following the terms and conditions of the attached contract. Currently the City of Branson does not have the ability to follow the normal practice of discontinuing water service for delinquent payment of sewer bills for our sewer customers connected to the Tri-States water system. As a result numerous sewer bills are left unpaid and now total over \$350,000 in delinquent sewer payments. In this agreement monthly City sewer billing will now be included on Tri-States' water bills allowing the customer to pay for both water and sewer at the same time and at one location. Tri-States will collect the monthly sewer charges and remit that amount, along with the associated water consumption records, to the City on a monthly basis. Payment will be required for the total combined water and sewer bill in order for the customer billing to remain current. Failure to pay the combined bill, or the sewer portion, will result in payment delinquency and will be subject to water service discontinuance following current water termination procedures of Tri-States Utility and the City of Branson. Tri-States will provide all notifications for potential water terminations and, if necessary, all materials and labor for the actual discontinuance process. Tri-States will provide these services for a service fee of \$4,400.00 per month.

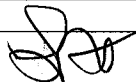
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 620-4410-570.20-99



ATTACHED INFORMATION:

AN ORDINANCE APPROVING AN AGREEMENT WITH TRI-STATES UTILITY FOR SEWER BILLING SERVICES OF CITY SEWER CUSTOMERS CONNECTED TO TRI-STATES UTILITY WATER SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson charges a monthly fee for sewer services to customers both inside and outside the City limits and the City desires for Tri-States Utility to collect said sewer fees on a combined water and sewer bill from City sewer customers connected to Tri-States Utility water system; and

WHEREAS, Tri-States Utility provides water services to residents which includes customers connected to the City of Branson sewer collection system and is authorized, at the request and direction of the City of Branson, to collect said sewer fees and to terminate water services at any premises, at which the combined water and sewer bill, or sewer portion thereof, are unpaid; and

WHEREAS, the Board of Aldermen desires to enter into the agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby authorizes the Mayor to execute a contract with Tri-States Utility in the form attached hereto as Exhibit "1" and authorizes the Mayor to execute the same.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read this first time on _____ day of _____, 2011.


Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

SEWER BILLING SERVICE AGREEMENT

This Agreement is hereby entered into on this ____ day of _____, 20____, between the CITY OF BRANSON, MISSOURI, a fourth class city of the State of Missouri, hereinafter called the "City", and TRI-STATES UTILITY, INC., a corporation of the State of Missouri, having its primary office at 302 Terrace Road, Branson, Missouri 65616, hereinafter called the "Water Company."

WITNESSETH:

WHEREAS, the City is engaged in supplying sewer service to the citizens and residents inside and outside the City limits; and

WHEREAS, the City charges a fee for such sewer services and bills such fee on a monthly basis to its customers so served; and

WHEREAS, the Water Company is the owner and operator of a water distribution system, which includes customers connected to the City sewer collection system, subject to the laws of the State of Missouri, and the Jurisdiction, Rules and Regulations of the Missouri Public Service Commission (PSC); and

WHEREAS, the City desires for the Water Company to collect said sewer fees on a combined water and sewer bill from City sewer customers connected to the Water Company water distribution system; and

WHEREAS, the Water Company is authorized, at the request and direction of the City, pursuant to the provisions of §§ 250.236 and 393.015 of the Revised Statutes of the State of Missouri, to collect the City sewer fees and to terminate water services and discontinue the supply of water from its water system to any premises, at which the combined water and sewer bill, or portion thereof as described herein, for services supplied by the City and the Water Company are unpaid;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the parties do mutually agree as follows:

1. **Billing of Sewer Service:** The Water Company shall incorporate on its monthly water bills for those Water Company customers connected to City sewer, fees and associated charges for City sewer service, based on the established sewer rates according to City Code. The sewer fees shall be based on the amount of water consumption of the sewer customer and calculated using the most current City Sewer Rates established and approved by the Branson Board of Aldermen and set forth in City Ordinance. City sewer rates are reviewed annually and any rate increase affecting this agreement shall be made effective on the beginning of the City fiscal year beginning January 1st of each year.

2. **Collection of Sewer Fees:** The Water Company shall collect the City sewer fees from Water Company customers connected to the City sewer at the time the Water Company customer pays the water bill due the Water Company. The customer shall be required to pay the combined water and

sewer bill in accordance to the Water Company payment policy to be considered current in payment with both the Water Company and the City.

3. **Remittance of Sewer Fees Collected:** At the end of each monthly billing cycle and by or before the tenth (10th) day of the following month the Water Company shall remit to the City the total amount of revenue collected from the City sewer customers for sewer service.

4. **Termination of Water Service:** Should a customer connected to the City sewer system and Water Company water distribution system be delinquent in the payment of the combined water and sewer bill the Water Company shall make determination to terminate water service in accordance to the policies and procedures set forth by the Water Company and regulated by the Public Service Commission for the termination of said water service. Should a customer connected to the City sewer system and Water Company water distribution system pay only the water portion of the bill and remains delinquent on the sewer portion, the Water Company shall notify the City of the nonpayment for sewer. The City shall review the information and shall give written direction to the Water Company to proceed with discontinuance of the water service if the sewer portion of the combined water and sewer bill is found to be delinquent in accordance to City code.

5. **Late Fees for Delinquent Payment:** Late fees assessed for delinquent payment shall be in accordance with the policies and procedures of the Water Company and regulated by the Public Service Commission. Any late fees collected and due from the customer connected to the City sewer system and Water Company water distribution system shall be retained by the Water Company. The City's sewer customer shall be afforded the right to be heard on the correctness of the record of arrearages; and all Federal and State Constitutional as well as Federal and State Statutory prerequisites applicable to the collection of debt shall be properly satisfied before termination.

6. **Restoration of Water Service:** Once applicable payment has been made of delinquent fees and charges of the combined water and sewer bill the Water Company shall restore water service in accordance to the policies and procedures of the Water Company.

7. **Sewer Service Deposit:** At the time of request for water service the Water Company shall collect a sewer deposit, in accordance with City code from customers that will be connected to the City sewer system and the Water Company distribution system. At the end of each month the Water Company shall remit to the City the amount of sewer deposit(s) collected during that period.

8. **Payment for Billing and Collection Services:** The City shall pay the Water Company concurrently the sum of \$4,400.00 per month for the services of collecting and remitting sewer fees and associated charges and deposits from each customer connected to the City sewer system and the Water Company distribution system, and for terminating the water supply to each premises for delinquent combined water and sewer bills, or in such cases where a combined water and sewer customer pays only the water portion of the combined water and sewer bill and the sewer portion of the bill remains delinquent. Such amount shall not be subject to refund for any reason, except that in the event the Water Company does not collect or remit fees as agreed or discontinue services for any reason other than those reasons herein. The City shall pay the bill for services within ten (10) days after receipt thereof. The monthly service fee shall not be dependent on the amount of terminations necessary due to late payments. The fees fixed hereunder may be amended at the time of agreement renewal as agreed in writing by both parties; to make adjustments for additional or reduced costs that may be incurred by the Water Company.

9. **Administrative Fee:** An administrative fee, in the amount \$1.50, shall be assessed to each City sewer customer connected to the Water Company distribution system, to cover costs for services provided by the Water Company under this agreement. The Water Company shall collect the administrative fee on a monthly basis from each sewer customer connected to the Water Company distribution system and remit said fee to the City at the time of the sewer fee remittance. The administrative fee may be amended by the City at the time of agreement renewal to cover additional or reduced costs for the services of the Water Company under this agreement.

10. **Customer Communication:** The Water Company shall notify the customer of the amount of water and sewer fees due at the time of billing through the Water Company billing process. Any dispute or disagreement of the City sewer customer regarding the sewer fee shall be referred to the City for resolution. Any adjustment to charges for sewer service shall be determined by the City using the policies and procedures of the City sewer adjustment ordinance as established and approved by the Branson Board of Aldermen. The City shall notify the Water Company of any adjustment for correction on the customer bill.

11. **Copies for Record:** A printed copy for record of water consumption and applicable fees and charges for sewer service for each combined water and sewer customer shall be furnished to the City with each remittance of fees collected for said sewer service.

12. **Missouri Immigration Law Affidavit:** After January 1, 2009, the service provider takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the services provider will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The service provider will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for an Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

PROVIDED HOWEVER, the Water Company shall not be liable for any loss, damage or other claim asserted by the City's sewer customers, the owner and/or tenant of the premises, the City or any other person, corporation or entity based upon or arising out of this agreement. To the extent required or permitted by § 393.015.2 and § 250.236.2, the City agrees to indemnify, defend and hold the Water Company harmless from and against any and all claims, complaints or causes of action arising out of the actions taken by the Water Company pursuant to this agreement and pertaining to sewer services.

The Water Company's actions required under this agreement shall be excused if due to matters beyond its control, including but not limited to employee work stoppages, strikes, inclement weather or emergencies requiring utilization of manpower or resources elsewhere. Termination of service will not be completed if a local board of health, municipality, fire district, court of competent jurisdiction or other governmental entity having jurisdiction, issues an instruction or order so stating to the Water Company. At such time, the Water Company will relay such

information to the City, and Water Company will not take further action toward termination. Thereafter, the City shall indemnify, defend and hold the Water Company harmless for actions taken by the Water Company. In no event shall Water Company be required to disconnect a fire line service without authorization from the governmental authority responsible for fire protection to the affected property, even in cases of combined fire and domestic service lines.

If a dispute shall arise between the parties regarding any of the provisions of this agreement, such dispute may be submitted by the parties to the Missouri Public Service Commission, whose decision, unless reversed on appeal, shall be final.

This agreement shall be in effect upon signing by both parties and ending on December 31, 2011. If upon expiration of this agreement a renewal agreement has not been reached the original agreement shall continue on a month by month basis until a renewal agreement is reached or the agreement is terminated. This agreement may be terminated upon ninety (90) days written notice to the other party at its principal place of business.

Upon execution of this agreement by the City and the Water Company, the Water Company shall immediately submit this agreement to the Missouri Public Service Commission for approval. This agreement is subject to the approval of the Missouri Public Service Commission and is further subject to the Rules and Regulations and Tariffs of the Water Company as same are presently on file with and approved by the Missouri Public Service Commission, except as modified herein.

This agreement may not be assigned to a third party without the expressed written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date first written above.

CITY OF BRANSON

TRI-STATE UTILITY, INC

By: _____

Raeanne Presley
Mayor

By:  _____


Tom Kelley
Vice President/COO

ATTEST:

APPROVED: _____, 20____.

Lisa K Westfall
City Clerk

APPROVED AS TO FORM:



William Duston
City Attorney

information to the City, and Water Company will not take further action toward termination. Thereafter, the City shall indemnify, defend and hold the Water Company harmless for actions taken by the Water Company. In no event shall Water Company be required to disconnect a fire line service without authorization from the governmental authority responsible for fire protection to the affected property, even in cases of combined fire and domestic service lines.

If a dispute shall arise between the parties regarding any of the provisions of this agreement, such dispute may be submitted by the parties to the Missouri Public Service Commission, whose decision, unless reversed on appeal, shall be final.

This agreement shall be in effect upon signing by both parties and ending on December 31, 2011. If upon expiration of this agreement a renewal agreement has not been reached the original agreement shall continue on a month by month basis until a renewal agreement is reached or the agreement is terminated. This agreement may be terminated upon ninety (90) days written notice to the other party at its principal place of business.

Upon execution of this agreement by the City and the Water Company, the Water Company shall immediately submit this agreement to the Missouri Public Service Commission for approval. This agreement is subject to the approval of the Missouri Public Service Commission and is further subject to the Rules and Regulations and Tariffs of the Water Company as same are presently on file with and approved by the Missouri Public Service Commission, except as modified herein.

This agreement may not be assigned to a third party without the expressed written consent of the other party.

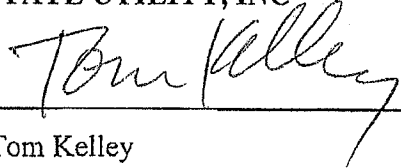
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date first written above.

CITY OF BRANSON

TRI-STATE UTILITY, INC

By: _____

Raeanne Presley
Mayor

By:  _____

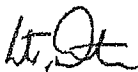
Tom Kelley
Vice President/COO

ATTEST:

APPROVED: _____, 20____.

Lisa K Westfall
City Clerk

APPROVED AS TO FORM:



William Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF TRI-LAKES FORD
PERTAINING TO THE PURCHASE OF VEHICLES AND AUTHORIZING THE
MAYOR TO EXECUTE THE CONTRACT.

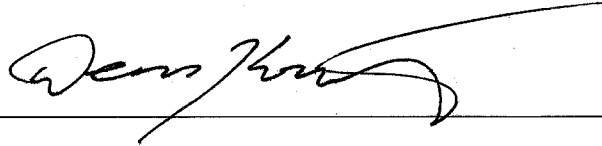
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: POLICE DEPARTMENT *CWW*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Initially we had requested funds be included in the budget for the replacement of six (6) police vehicles, in this budget cycle we will have five (5) vehicles that will meet the ninety thousand plus miles (90,000) replacement threshold for the acquisition of new police cars. With needing only five (5) vehicles this will give us an opportunity to use the remaining approved funds for the normal replacement of worn emergency equipment and the addition of in-car video recording systems for some of the patrol vehicles.

Bids were received November 17, 2010 for the purchase of five (5) police vehicles for the Police Department. This is for budgeted, scheduled vehicle replacement in the Police Department fleet. A total of four bids were received. Three of the bids met vehicle specification requirements as listed in the RFP. The bids received which met specification requirements are as follows:

<u>Bidder</u>		<u>Police Cars</u>	<u>No.</u>	<u>Total</u>
Tri-Lakes Ford	Branson MO.	\$24,633.00	5	\$123,165.00
Friendly Ford	Springfield MO.	\$25,398.76	5	\$126,993.80
Hudspeth Ford	Harrison AR.	\$25,967.00	5	\$129,835.00

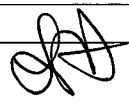
Bid award is recommended to Tri-Lakes Ford as the low bidder meeting specifications.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 601-0750-510.90-20 

ATTACHED INFORMATION:

BILL NO. 3894

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF TRI-LAKES FORD PERTAINING TO THE PURCHASE OF VEHICLES FOR THE POLICE DEPARTMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for bids for replacement vehicles; and

WHEREAS, of the proposals which were received, Tri-Lakes Ford has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Tri-Lakes Ford for the purchase of five vehicles in the amount of \$24,633.00 each for a total amount of \$123,165.00 and authorizes the Mayor to execute the contract attached hereto as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed, and truly agreed to by the Board of Aldermen of City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

CITY OF BRANSON, MISSOURI PURCHASE OF COMMODITIES CONTRACT

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Tri-Lakes Motors, Inc.** ("Seller"):

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Five (5), four door, Ford Crown Victoria, or equivalent, from a date commencing with the execution of this contract and ending December 31, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **One Hundred Twenty Three Thousand One Hundred Sixty Five Dollars (\$123,165.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to **Tri-Lakes Motors, Inc., 180 State Hwy. F, Branson, MO 65616.**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
5. **Inspection and Acceptance.**
 - a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
6. **Warranty.**
 - a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A.
7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items

covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed

under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By: 

Name: Rosa C. B. Jones
Address: 180 State Hwy F
Branson MO 65616
Phone: 417-334-7543
Fax: 417-334-0721

Tax ID: 43-1304938

ATTEST:


Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____

Raeanne Presley
Mayor

APPROVED AS TO FORM:



William T. Duston
City Attorney

Tri-Lake Motors
180 State Highway F & 65
Branson, MO 65616

SCOPE OF WORK

General Requirements:

001. The City wishes to purchase five (5) four-door, Ford Crown Victoria or equivalent, full size automobiles with police packages having at a minimum:

1. Model 2011
2. V-8 high output gasoline / E85 engine
3. Automatic overdrive transmission
4. Rear wheel drive
5. Air conditioning
6. Power door locks
7. Power brakes
8. Power steering
9. Power windows
10. 200-AMP max alternator
11. 78-AM HR, 750 CCA battery
12. Tinted glass
13. AM/FM stereo radio w/clock
14. Rear window defrost
15. Black dual electric remote control mirrors
16. Intermittent wipers
17. Tilt steering wheel
18. Full carpeting
19. Matching carpeted floor mats
20. Black 6" halogen spot light mounted on driver's side
21. Single key locks
22. Body side molding installed prior to delivery
23. Heavy duty cloth front bucket seats
24. Full size spare tire
25. Full wheel covers
26. Remote deck lid release
27. Calibrated speedometer
28. Radio noise suppression package
29. Police prep package including but not limited to; strobe bulbs, shielded coaxial strobe conductor cables, waterproof isolator fuses, wiring harness, power control centers, large armrest, conduit, remote door lock adapter, trunk air circulation fan, permanent "Y" secure strap, dual storage boxes, rear communications service tray, console mounting platform. i.e., Ford package 68P.
30. Full size trunk, containing at a minimum 20 cu. ft. of luggage capacity

31. Color: Two-Tone Black & White exterior as follows: roof, roof pillars and doors white, remainder black, with charcoal or black interior. Black front grill.
2. City reserves the right to reject all bids due to budget restrictions. It is the intent and purpose of the City that this Request for Bid provides fair and equal opportunity for each bidder to submit competitive bids. It is the bidder's responsibility to furnish as much details as possible for consideration.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide vehicles as specified in accordance with the terms and conditions of this contract.

001.	Model 2011 full size police vehicles	\$ 24,633.00 ea.
------	--------------------------------------	------------------

Please state brand and model offered.

Ford Crown Victoria

Please state warranty detail and cost.

Standard Factory

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AWARDING THE BID TO BRENNTAG MID SOUTH, INC. FOR POTASSIUM PERMANGANATE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES FOR THE CITY OF BRANSON.

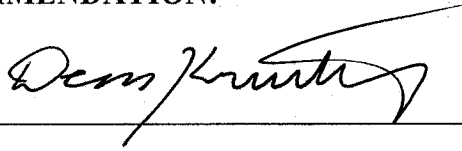
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: UTILITIES DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Two bids were received on October 6, 2010 for the purchase of potassium permanganate for use in the water and wastewater treatment facilities for the period of January 1, 2011 to December 31, 2011. Individual bids are as follows:

F2 Industries, LLC	\$ 2.69 per pound
Brenntag Mid South, Inc	\$ 3.25 per pound

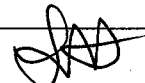
Low bidder was not able to meet the insurance requirements set forth in the bid specifications therefore bid is recommended to the next bidder meeting all specifications. Based on estimated quantities, anticipated expenditures for this chemical will be approximately \$36,000.00. This amount is within budget. Staff recommends bid award of this chemical to Brenntag Mid South, Inc.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 620-4420-570.40-15 and 620-4320-570.40-15 

ATTACHED INFORMATION:

AN ORDINANCE ACCEPTING THE PROPOSAL OF BRENNTAG MID SOUTH, INC. FOR POTASSIUM PERMANGANATE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for bids for chemicals used in the water and wastewater treatment facilities for the City of Branson; and

WHEREAS, of the proposals which were received, Brenntag Mid South, Inc. has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby accepts the proposal of Brenntag Mid South, Inc. for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities for an amount not to exceed \$36,000.00 and authorizes the Mayor to execute the contract in the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read this first time on _____ day of _____, 2011.


Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this 3rd day of January, 2010, by and between the City of Branson, Missouri (the "City") and Brenntag Mid-South, Inc. ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. **Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **Water/Wastewater Treatment Chemicals (Potassium Permanganate) from a date commencing January 1, 2011 and ending December 31, 2011.**
2. **Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Thirty Six Thousand Dollars (\$36,000.00).**
3. **Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **Various Locations**

4. Invoices. An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. Inspection and Acceptance.

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. Warranty.

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: [describe anything else that should be stated about warranties].

7. Patents. Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. Bankruptcy or Insolvency. In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. Compliance with Applicable Laws. The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture

or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.

16. Conflicts. No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Bonds and Insurance. The Service Provider must have and maintain, at the Service Provider's expense, adequate liability insurance and bonds (if applicable) to satisfy statutory bonding requirements, of section 537.610.2 and 537.610.5 of the Missouri Revised Statutes to protect the City and the general public against any loss, damage and/or expense related to the Service Provider's performance under this contract. The insurance coverage shall include, but need not be limited to, the following coverage's in the amounts specified. Such insurance must indemnify the City to the fullest extent possible under the laws of the State of Missouri

A. General Liability Insurance with a company licensed to do business in the State of Missouri with limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death) and property damage. The City of Branson must be named as an additional insured.

B. Automobile Liability Insurance with a company authorized to do business in the State of Missouri having limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death). The City of Branson must be named as an additional insured.

C. Worker's Compensation Insurance with a company authorized to do business in the State of Missouri having limits not less than one million dollars (\$1,000,000.00), including occupational disease provisions for all employees of the Service Provider(s) and Sub-Service Provider(s).

D. The Service Provider will require all Sub-Service Providers to provide and maintain like insurance as set forth above unless the Service Provider's policies extend to claims made against or growing out of operations of the Sub-Service Provider.

E. Written evidence of the required insurance coverage must be submitted before or upon award of the contract. Such policy(ies) shall name the City of Branson as additionally insured. Failure to maintain required insurance coverage shall be considered a breach of this contract.

F. Service Provider understands and agrees that the insurance required under the terms of the contract in no way precludes the Service Provider from carrying

such other insurance as may be deemed necessary by the Service Provider for the operation of the Service Providers business or for the benefit of the Service Provider's employees

G. Notwithstanding any other provision of the contract to the contrary, no insurance procured by the Service Provider shall be construed to constitute a waiver of any sovereign immunity as set forth in section 537.600 through 537.650 of the Missouri Revised Statutes, or any other governmental or official immunity, which is barred under said doctrines of sovereign, governmental or official immunity available to the City, its Board of Aldermen, salaried officers or employees, nor constitute waiver of any available defense. The Service Provider shall cause all policies of insurance related to the contract to be endorsed in accord to this subparagraph.

G. If this is a multi-year contract then the Service Provider shall further require the upper limits of coverage of such policies to be adjusted on an annual basis to be at least equal to the limits of liability set forth in section 537.610.2 and 537.610.5 of the Missouri Revised Statutes as amended from time to time.

I. Insurance Certificates. It is the sole responsibility of the Service Provider to provide the City with the most up-to-date insurance certificates and to keep them current throughout the term of the contract and for any renewal periods. Any failure to maintain insurance coverage shall not relieve any contractual responsibility, obligation or liability under the contract documents. Insurance Certificates must be faxed or mailed to the address provided.

18. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

19. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ ____ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

20. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this

agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By: *[Signature]*
Name: BRENTAG Mid South
Name: LARRY STANTIN
Address: 2235 W. Battlefield
Springfield MO 65807
Phone: 417-887-3663
Fax: 417-887-5136

Tax ID: 610-504-545

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____
Raeanne Presley
Mayor

APPROVED AS TO FORM:

[Signature]
William T. Duston
City Attorney

Brenntag Mid-South
2234 W. Battlefield Rd.
Springfield, MO 65807

SCOPE OF WORK

1. Purpose: To provide water/wastewater treatment chemicals for the period of January 1, 2011 through December 31, 2011. Prices must remain firm through the contract period.
2. General Requirements:
 - 2.1 All gases and chemicals must be of acceptable quality.
 - 2.2 Contractor agrees to supply cylinders and containers that show evidence of a high standard of maintenance. Cylinders and containers will not show excessive rust, corrosion, scaling, or deterioration. Valves will open without undue pressure. Unused lead gaskets will be supplied with all chlorine and sulfur dioxide cylinders. Contractor agrees to pickup, immediately, any chlorine and sulfur dioxide cylinders requiring the use of a repair kit. A replacement repair kit must be returned to the City within three (3) calendar days. If, at any time the contractor fails to meet or correct problems, involving safety, product quality or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such a manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 Samples will be taken from each individual load of liquid aluminum sulfate and water treatment coagulants upon delivery. Any sample taken which indicates solids separation of the product will result in **immediate rejection** of the load. The contractor at no expense to the City shall remove any solids buildup in the City's bulk storage tanks as a result of the product supplied, other than items requiring routine maintenance.
 - 2.4 All pricing must include shipping costs* and the waiving of all cylinder, drum, and carboy deposits.
 - 2.5 All chemicals must be priced by the pound (as applicable on a dry weight or wet weight basis), or gallon according to the basis shown on the pricing page including all shipping costs* for product delivered to various plants located in Branson, MO. (* Shipping costs shall include all cost related to the delivery and unloading of product to the proper place in the various locations, additions i.e. fuel surcharges, handling fees etc. will not be accepted.) Pricing given excluding freight will be considered non-compliant and the bid will be rejected. Companies delivering and unloading product on City property using their own trucks or subcontracting through a contract hauler will supply insurance, as

required in this contract.

- 2.6 The City agrees to maintain an inventory of cylinders, drums and carboy containers, where applicable, to be returned to the appropriate Contractor upon request and will assume responsibility for any lost or stolen cylinders.
- 2.7 Quantities given are estimated usage only and may be more or less depending upon demand. The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
- 2.8 Current MSDS sheets must be furnished prior to receipt of the first shipment of product awarded in this contract.

PRICING PAGE

The seller must provide pricing information as specified below to provide chemicals as specified in accordance with the terms and conditions of this contract.

Type	Estimated Usage	Unit Price
008. Potassium Permanganate (330# drums)	11,000 lbs.	\$ 3.25 / lb.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF CUSTOM PRODUCTS CORPORATION PERTAINING TO SIGNAGE SUPPLIES.

FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Bids were received on October 13, 2010 for traffic signage supplies. These items include preprinted signs, sign blanks for the city to add lettering as needed, sign posts, barricades, etc. A portion of the supplies are simply to meet the city's annual signage needs. The remainder of the supplies are due to new federal requirements to upgrade the retroreflectivity of all street signs to meet the national guidelines.

Five different firms submitted the low bid on 110 different products. To obtain the overall lowest price for the needed items, each firm will be awarded the bid for the items for which they were lowest.

Custom Products Corporation was the low bidder on 49 different items. The total cost of these items to be purchased in the 2011 budget is \$16,880

The bids met the specifications and the low bid from Custom Products Corporation is recommended for the purchase.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-20-65 

ATTACHED INFORMATION:

BILL NO. 3896

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF CUSTOM PRODUCTS CORPORATION PERTAINING TO SIGNAGE SUPPLIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for bids for signage supplies for traffic control and maintenance; and

WHEREAS, of the bids which were received, Custom Products Corporation has been recommended for approval; and

WHEREAS, the Board of Aldermen desire to award the contract to purchase signage supplies.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Custom Products Corporation pertaining to the purchase of signage supplies pursuant to Exhibit "1", as attached hereto and incorporated herein by reference, and authorizes the Mayor to execute the agreement on behalf of the City of Branson.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Custom Products Corp.** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Sign Making Supplies, from a date commencing January 1, 2011 and ending December 31, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Sixteen Thousand Eight Hundred Eighty Dollars (\$16,880.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. **Inspection and Acceptance.**

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. **Warranty.**

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: N/A

7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. **Jurisdiction.** This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. **Missouri Immigration Law Affidavit.** After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. **Entire Agreement.** This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

City of Branson, Missouri

By: Heidi McGee
Name: Custom Products Corp
Address: PO Box 51091
Jackman MS 39288
Phone: 601 933 8282
Fax: 601 932 7178

By: _____
Raeanne Presley
Mayor

Tax ID: 64-0701635

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk

WTD

William T. Duston
City Attorney

Custom Products Corp
PO Box 54091
Jackson, MS 39288-4091

SCOPE OF WORK

1. Purpose: To provide sign making supplies for the period commencing January 1, 2011 through December 31, 2011.
2. General Requirements:
 - 2.1 All products must be of acceptable quality. The City will not accept off colors, splices in coating on sheeted blanks or fish eyes (bubbles) in the sheeted coating. **All signs must be of Hi-Prismatic material.**
 - 2.2 Contractor agrees to replace defective products within ten (10) days. If, at any time, contractor fails to meet or correct problems involving the quality of the product or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 All pricing must include shipping, delivered to facilities located in Branson, MO.
 - 2.4 Contractor shall use recycled products where appropriate.
 - 2.5 The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide sign making materials as specified in accordance with the terms and conditions of this contract.

Item	Product		Unit Price
001.	Stop Sign	30" x 30"	\$ _22.23_____
002.	Stop Sign	36" x 36"	\$ _31.06_____
003.	Do Not Enter Sign	30" x 30"	\$ _22.58_____
004.	Dead End Sign	30"	\$ _22.58_____
005.	Dead End Sign	36"	\$ _32.15_____
007.	45 MPH speed limit sign	36" x 48"	\$ _42.86_____
008.	Railroad Crossing sign	36"	\$ _32.15_____
011.	No Right Turn sign	30"	\$ _24.08_____
016.	Diamond Shape Blanks	30" (orange)	\$ _22.58_____
017.	Diamond Shape Blanks	36" (orange)	\$ _22.58_____
018.	Diamond Shape Blanks	30" (yellow)	\$ _22.58_____
019.	Square Shape Blanks	30" (orange)	\$ _22.58_____
020.	Square Shape Blanks	36" (orange)	\$ _32.15_____
021.	Sign blanks	24" x 36" (white w/black border)	\$ _21.61_____
022.	Sign blanks	36" x 48" (white w/black border)	\$ _42.86_____
036.	Reflective Sign Blanks	30" x 30" (white w/black border)	\$ _22.58_____
037.	Reflective Sign Blanks	30" x 30" (black w/white border)	\$ _22.58_____
038.	Reflective Sign Blanks	30" x 30" (yellow w/black border)	\$ _22.58_____
039.	Reflective Sign Blanks	36" x 30" (white w/black border)	\$ _27.09_____
040.	Reflective Sign Blanks	36" x 36" (white w/black border)	\$ _32.15_____
064.	Yield	30" x 30"	\$ _11.75_____

065.	STOP/SLOW turn paddle	18"	\$ _16.47_____
066.	STOP/SLOW turn paddle	24"	\$ _28.58_____
069.	Road & Bridge Delineators	10" x 30"	\$ _8.38_____
070.	Road & Bridge Delineators	12" x 36"	\$ _11.23_____
075.	Traffic Cones	18" (Hi-visible orange)	\$ _4.23_____
076.	Traffic Cones	28" (Hi-visible orange w/reflective bands	\$ _12.52_____
080.	Type III Object Markers	12" x 36" (left, right, chevron yellow/black)	\$ _11.23_____
081.	Post Cap 808 Series	2 3/8" OD	\$ _3.05_____
082.	Universal Bracket		\$ _2.25_____
085.	Metal Street Sign Posts (12')	2 3/8" O.D	\$ _18.82_____
086.	Metal Street Sign Posts (12')	Breakaway	\$ _51.14_____
088.	12" x 2 3/8 round post caps for flat blade street signs		\$ _8.00_____
090.	12" 90 degree cross pieces		\$ _7.99_____
093.	1 3/4" x 14' square breakaway post		\$ _71.89_____
095.	2 1/2" x 16' square breakaway post		\$ _94.35_____
096.	2 1/2" x 36" stub pipe for 2 1/2" square post		\$ _10.70_____
097.	2" x 36" stub pipe for 1 3/4" square post		\$ _9.14_____
098.	2 3/8" 12' thin wall post		\$ _18.82_____
099.	Snap lock assembly 9 1/16"x40" (hose clamps) w/sign bracket		\$ _4.90_____
101.	A-Frame barricades 8' single board (High-Intensity)		\$ _75.41_____
102.	Galvanized Tri-pod sign stand		\$ _24.89_____
104.	Type III plastic barricades w/2 legs		\$ _206.03_____
105.	Type III barricade board (A-Frame) reflective 2 sided		\$ _45.65_____
106.	Type III A-Frame legs		\$ _29.76_____

107.	Barricade sheeting (50 yard roll) orange/white	\$ _152.75_____
108.	Barricade lights yellow	\$ _13.16_____
110.	Channelizer Barrels	\$ _54.98_____
111.	Channelizer Cones	\$ _29.65_____

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF IBIS TEK APPAREL LLC PERTAINING TO SIGNAGE SUPPLIES.

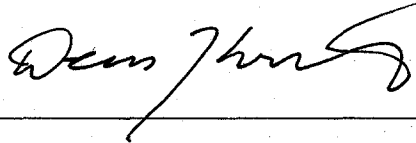
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Bids were received on October 13, 2010 for traffic signage supplies. These items include preprinted signs, sign blanks for the city to add lettering as needed, sign posts, barricades, etc. A portion of the supplies are simply to meet the city's annual signage needs. The remainder of the supplies are due to new federal requirements to upgrade the retroreflectivity of all street signs to meet the national guidelines.

Five different firms submitted bids on 110 different products. To obtain the overall lowest price for the needed items, each firm will be awarded the bid for the items for which they were lowest.

Ibis Tek Apparel LLC was the low bidder on 29 different items. The total cost of these items to be purchased in the 2011 budget is \$18,520.

The bids met the specifications and the low bid from Ibis Tek Apparel LLC is recommended for the purchase.

STAFF RECOMMENDATION:

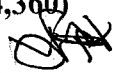
Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-40-23 (\$4,160) and 601-0750-510-90-10 (\$14,360)

ATTACHED INFORMATION:



BILL NO. 3897

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING THE PROPOSAL OF IBIS TEK APPAREL LLC
PERTAINING TO SIGNAGE SUPPLIES AND AUTHORIZING THE MAYOR TO
EXECUTE THE CONTRACT.**

WHEREAS, the City of Branson advertised for bids for signage supplies for traffic control and maintenance; and

WHEREAS, of the bids which were received, Ibis Tek Apparel LLC has been recommended for approval; and

WHEREAS, the Board of Aldermen desire to award the contract to purchase signage supplies.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE
CITY OF BRANSON, AS FOLLOWS:**

Section 1: The Board of Aldermen hereby accepts the proposal of Ibis Tek Apparel LLC pertaining to the purchase of signage supplies pursuant to Exhibit "1", as attached hereto and incorporated herein by reference, and authorizes the Mayor to execute the agreement on behalf of the City of Branson.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Ibis Tek Apparel LLC** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Sign Making Supplies, from a date commencing January 1, 2011 and ending December 31, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Eighteen Thousand Five Hundred Twenty Dollars (\$18,520.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

- 4. Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
- 5. Inspection and Acceptance.**
- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
- 6. Warranty.**
- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A
- 7. Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
- 8. Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
- 9. Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By:

Rachel Berglund
Name: RACHEL BERGLUND
Address: 472 PINEBORG RD
ROTLER PA 16002
Phone: 724-431-3072
Fax: 724-586-2179

Tax ID: 20-4261224

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By:

Raeanne Presley
Mayor

APPROVED AS TO FORM:

William T. Duston
William T. Duston
City Attorney

IBIS TEK APPAREL LLC
496 Pittsburgh Road
Butler PA 16002

SCOPE OF WORK

1. Purpose: To provide sign making supplies for the period commencing January 1, 2011 through December 31, 2011.
2. General Requirements:
 - 2.1 All products must be of acceptable quality. The City will not accept off colors, splices in coating on sheeted blanks or fish eyes (bubbles) in the sheeted coating. **All signs must be of Hi-Prismatic material.**
 - 2.2 Contractor agrees to replace defective products within ten (10) days. If, at any time, contractor fails to meet or correct problems involving the quality of the product or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 All pricing must include shipping, delivered to facilities located in Branson, MO.
 - 2.4 Contractor shall use recycled products where appropriate.
 - 2.5 The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide sign making materials as specified in accordance with the terms and conditions of this contract.

Item	Product	Unit Price
041.	Flat Aluminum Blades 6" x 24" (green prism both sides)	\$ _5.38_____
042.	Flat Aluminum Blades 6" x 30" (green prism both sides)	\$ _6.69_____
043.	Flat Aluminum Blades 6" x 36" (green prism both sides)	\$ _8.02_____
044.	Flat Aluminum Blades 9" x 12" (green prism both sides)	\$ _4.03_____
046.	Flat Aluminum Blades 9" x 24" (green prism both sides)	\$ _8.07_____
047.	Flat Aluminum Blades 9" x 30" (green prism both sides)	\$ _10.00_____
048.	Flat Aluminum Blades 9" x 36" (green prism both sides)	\$ _12.04_____
050.	Flat Aluminum Blades 18" x 64" (green prism both sides)	\$ _42.84_____
051.	Flat Aluminum Blades 18" x 72" (green prism both sides)	\$ _48.15_____
052.	Flat Aluminum Blades 6" x 24" (white prism both sides)	\$ _5.38_____
053.	Flat Aluminum Blades 6" x 30" (white prism both sides)	\$ _6.69_____
054.	Flat Aluminum Blades 6" x 36" (white prism both sides)	\$ _8.02_____
055.	Flat Aluminum Blades 9" x 12" (white prism both sides)	\$ _4.03_____
056.	Flat Aluminum Blades 9" x 18" (white prism both sides)	\$ _6.06_____
057.	Flat Aluminum Blades 9" x 24" (white prism both sides)	\$ _8.07_____
058.	Flat Aluminum Blades 9" x 30" (white prism both sides)	\$ _10.00_____
059.	Flat Aluminum Blades 9" x 36" (white prism both sides)	\$ _12.04_____
060.	Flat Aluminum Blades 18" x 60" (white prism both sides)	\$ _40.01_____
061.	Flat Aluminum Blades 18" x 64" (white prism both sides)	\$ _42.84_____
062.	Flat Aluminum Blades 18" x 72" (white prism both sides)	\$ _48.15_____
063.	Yield 24" x 24"	\$ _7.83_____

067.	Slow Moving vehicle Emblem (Orange reflective triangle)	\$ _5.45_____
068.	Road & Bridge Delineators 6" x 24"	\$ _4.46_____
071.	Diamond button delineators 18"	\$ _8.82_____
072.	Diamond button delineators 24"	\$ _15.66_____
073.	Chevrons 24" x 30" (yellow/black)	\$ _19.43_____
077.	Reflective Post Strips 4" x 72" (yellow)	\$ _6.66_____
078.	Reflective Post Strips 3" x 72" (red)	\$ _4.99_____
079.	Reflective Post Strips 3" x 72" (white)	\$ _4.99_____

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF KEY EQUIPMENT & SUPPLY COMPANY PERTAINING TO AN ELGIN PELICAN STREET SWEEPER AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT *John*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill. *Dean Jones*

STAFF REPORT:

The city's existing street sweeping equipment is mechanically obsolete and in need of replacement. The approved 5-year capital budget plan anticipated the purchase of a replacement street sweeper and funds were included in the 2011 budget.

Municipalities can obtain better and lower bids on equipment by utilizing the State of Missouri's existing bidding process. By combining the purchasing power of the state along with many cities and counties, the vendors are able to supply the equipment at very low cost. The low bidder on the state contract for street sweepers and equipment (MO Contract #3-080213) was Key Equipment and Supply Company. The bid is:

Elgin Pelican NP Dual Mechanical Street Sweeper w/Options

\$172,800.00

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-90-20 *SA*

ATTACHED INFORMATION:

BILL NO. 3898

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF KEY EQUIPMENT & SUPPLY CO. PERTAINING TO AN ELGIN PELICAN STREET SWEEPER AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, in accordance with the State of Missouri's purchasing procedures, the City of Branson is allowed to utilize the state bids for purchasing municipal equipment; and

WHEREAS, Key Equipment & Supply Co. is the low bidder as determined by Missouri State Contract #3-080213 for equipment needed by the City of Branson identified in the 5-year capital budget plan; and

WHEREAS, the Board of Aldermen desires to award the contract for the purchase of the equipment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican NP Dual Mechanical Street Sweeper for a total amount of \$172,800.00 and authorizes the Mayor to execute the contract attached hereto as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2011, by and between the City of Branson, Missouri (the "City") and **Key Equipment and Supply Co. ("Seller")**.

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

- 1. Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **One (1) Elgin Pelican Street Sweeper, from a date, commencing with the execution of this contract and ending April 1, 2011.**
- 2. Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **One Hundred Seventy Two Thousand Eight Hundred Dollars (\$172,800.00).**
- 3. Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
5. **Inspection and Acceptance.**
 - a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
6. **Warranty.**
 - a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A.
7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By: Kent Fahnholz
Name: Key Equipment & Supply Co.
Address: 6716 Berger Ave.
Kansas City, KS 66111
Phone: 800-262-0149
Fax: 913-788-4093

Tax ID: 43-0789228

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____
Raeanne Presley
Mayor

APPROVED AS TO FORM:

W. T. Duston
William T. Duston
City Attorney

SCOPE OF WORK

Purpose: To purchase an Elgin Pelican NP Dual Mechanical Street Sweeper.

General Requirements:

Air Cleaner, two-stage, dry type with restriction indicator
Alternator 120 amp
Anti-Siphon water fill
Automatic engine shutdown (oil pressure/engine temperature)
Automatic pickup in reverse
Return to sweep feature
Back-up alarm, electric
Battery, maintenance free
Brakes, power
Broom, main, prefab, disposable
Broom, main, hydraulically suspended
Broom, main, in-cab pressure controlled
Broom, side broom, hydraulically suspended
Broom, side broom, in cab pressure control
Bumper pads, front jack
Coolant recovery system
Doors, see-thru with sliding upper windows
Engine, hour meter
Fenders, over front wheels
Flushing system for hopper/conveyor
Fuel tank, 35 gallons
Gauges & Warning lights for engine oil temp, engine oil pressure, fuel level, speedometer, odometer with trip set
Heater, pressurizer with filtered air, defroster
Hose, hydrant fill, 16'8" with coupling
Light, spotlight, adjustable, one per side broom
Lights, 2 combination, tail/stop lights
Lights, headlights, multiple beam
Lights, flashing sweep warning lamps
Lights, low water light
Low Hydraulic warning
Manuals, operator and parts
Mirror, inside rearview
Mirrors, outside, front mounted 6" fish eyes
Mirrors, outside, west coast type, one each side
Parking brake with interlock
Seat Belts (both sides for dual)
Seats, extra wide cordura suspension seats with armrests
Sprung guide wheel, heavy duty

Steering wheel, tilt and telescoping
Signals, self-canceling directional with hazard switch
Sun visor(s)
Tachometer, diesel engine
Tires, tubeless radials
Tow loops, four
Water tank, fill gauge
Water tank, molded polyethylene, 220 gallon total nominal capacity
Wheels, dual guide
Windshield, tinted
Windshield washer
Windshield wipers with intermittent setting
B20 Biodiesel compatible
Fuel Water separator with indicator light
Rear camera & in-cab monitor
Electronic throttle

In addition to the standard features, the following product enhancements meet and/or exceed the current MoDOT specifications:

Robert Shaw automatic lubrication system with an individual pump for each zerk
LifeLiner hopper coating system with lifetime limited warranty
Left and Right LED strobe lights with limp protectors mounted on cab
Left and Right gutter broom tilt angle control from in cab
LED arrowstick mounted to top rear of cab (MoDOT Special arrowboard Not Available) Show location
All brooms raise when vehicle is placed in reverse
AM/FM stereo weatherband with CD player and two speakers
Sweeper painted yellow (white)
Air Conditioner
Heated remote controlled mirrors
Alternating LED strobe lights flush mounted to rear of sweeper
Sweep resume after transport (details)
Side broom tilt controlled from cab with gauges
Automatic engine shutdown for low hydraulic level
Service, parts and operators and manuals to meet specifications

PRICING PAGE

Elgin Pelican NP Dual Mechanical Street Sweeper (MoDOT Bid 3-080213) \$170,795.00

Options

Yellow paint	(350.00)
Midwest Auto Lube	(4,960.00)
LifeLiner Hopper Coating	(2,250.00)
Carbide Drag Shoes	960.00
Traction Assist	3,420.00
LED Stop/Turn/Back up Lights	270.00
Block Heater	285.00
Toolbox for Leaf Blower	750.00
Left Hand Toolbox	495.00
Elgin Warranty 2 Year Parts & Labor (covers road service fee)	3,000.00
Engine Pre-Cleaner	385.00

TOTAL PRICE DELIVERED TO CITY OF BRANSON \$172,800.00

Price is good through February 28, 2011

Includes on site factory certified training by Key Equipment for service and operation

Payment terms are Net 10

Delivery in approximately 45 – 90 days A.R.O.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO NUISANCES.

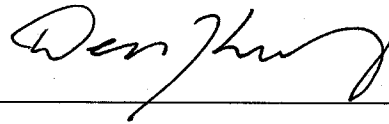
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 25, 2011

INITIATED BY: PLANNING & DEVELOPMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Replacement of this bill with a substitute bill.



STAFF REPORT:

This bill was postponed on its final reading during the January 11, 2011 Board of Aldermen meeting in order to make revisions. Due to the number of changes, a substitute bill was drafted. See following agenda item.

STAFF RECOMMENDATION:

Replacement of this bill with Substitute Bill No. 3899.

PROPOSED MOTION:

Move that Bill No. 3899 be considered as a substitute bill and replacement for Bill No. 3881 and that Bill No. 3881 be removed from the agenda.

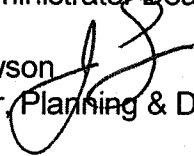
FINANCIAL REVIEW: N/A 

ATTACHED INFORMATION: Memo

Memo

DATE: January 4, 2011

TO: Mayor Raeanne Presley
Board of Aldermen
City Administrator Dean Kruithof

FROM: Jim Lawson 
Director, Planning & Development

SUBJ: Proposed Nuisance Ordinance

Staff has reviewed the comments made on the Dangerous Building and Nuisance ordinances at the December 14, 2010, public hearing. Listed below are some recommendations for changes to the Nuisance draft ordinance. We do not see any changes necessary in the Dangerous Building draft ordinance.

1. Sec. 58-293. Definitions.

Current: *Inoperable Vehicle* means any vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Issue: Inclusion of the word "unlicensed" would disallow vehicles that are in good repair but simply not licensed at that particular time or for collectable vehicles that are not being driven.

Proposed: *Inoperable Vehicle* means any **self-propelled** vehicle including, but ~~not limited to any vehicle that is unlicensed, wrecked, abandoned,~~ in a state of disrepair, or incapable of being moved under its own power.

2. Sec. 58-294. Nuisances; general.

Current: (5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

- a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.

Issue: Many businesses utilize trailers for the storage of product and other items. These trailers are typically parked behind their business establishment on a paved surface. Some of these trailers aren't moved, while others do

move their trailers as part of their business function. Such trailers range from small flatbed trailers to small box-style trailers to semi-truck trailers. The concern is that this code would disallow all trailers from being parked on a property.

Proposed: Delete this paragraph.

~~a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.~~

3. Sec. 58-294. Nuisances; general.

Current: (5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

c. Any vehicle that is parked on a surface other than a public street or driveway, which is surfaced with asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.

Issue: Gravel as a parking surface exists in many areas in the city, and if this ordinance has no grandfather (legal non-conforming) clause, these gravel parking areas would be in violation of the ordinance. There also were inputs that gravel is an acceptable parking surface and it is permeable and relatively inexpensive.

Proposed: (5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

~~c. Any vehicle that is parked on a surface other than~~ **causing damage or degradation to the parking area or access route to the parking area, including, but not limited to, ruts in the soil, dead grass or damage to vegetation, or where such parked vehicle has been abandoned as evidenced by the lack of proper maintenance to the area where the vehicle is parked.** ~~a public street or driveway, which is surfaced with a asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.~~

4. Sec. 58-294. Nuisances; general.

(5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

d. Any vehicle that is dismantled, inoperable, junked, or unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) days by the owner of the property and that the vehicle is licensed to that owner.

Issue: Current code allows one (1) dismantled, inoperable, junked, or unlicensed vehicle on a property. This proposal allows none.

Proposed: (5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section.

d. Any vehicle that is dismantled, ~~or inoperable, junked, or unlicensed,~~ unless the vehicle is stored within an enclosed building ~~or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.~~

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) consecutive calendar days by the owner of the property and that the vehicle is licensed to that owner.

5. Sec. 58-294. Nuisances; general.

(5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.

Issue: What is to be used to provide the screening?

Proposed: Delete this paragraph.

~~f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.~~

6. Sec. 58-294. Nuisances; general.

(7) *Portable Storage Units.* Any portable storage units that remains on the premises for more than thirty (30) calendar days is declared a nuisance.

Issue: The specified thirty (30) day time limit may be too short for certain situations.

Proposed: (7) *Portable Storage Units.* Any portable storage unit that remains on the a residential premises for more than thirty (30) consecutive calendar days in a 12 month period is declared a nuisance.

7. Sec. 58-293. Definitions.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies, and unenclosed porches.

Issue: Including "half the width of the platted alley" as part of the rear yard would allow the owner / tenant to use half of the alley for the parking of an RV, boat or trailer. This would block the alley.

Proposed: *Rear Yard* means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (~~in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard~~) **but** not including steps, unenclosed balconies, and unenclosed porches.

AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO NUISANCES.

WHEREAS, a need has been determined for regulations and procedures for the upkeep of properties within the city of Branson to provide for the health, safety and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article VIII – *Nuisances* – Section 58-293 – *Definitions*, Section 58-294 – *Nuisances; general* and Section 58-297 – *Enforcement and Abatement* and Section 58-298 – *This Code to Control in Event of Conflict* of the Branson Municipal Code is added as follows:

Sec. 58-293. Definitions.

For the purpose of this article, certain terms and words are hereby defined as follows. Any word not defined herein or in the code shall have its ordinary and usual meaning.

Abatement is the act of eliminating or terminating a condition.

Agent means a person entrusted with another's business. A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons.

Debris means the remains of anything broken down, destroyed, or in ruins.

Director means the person appointed as the director of planning & development, and in the context of this article, unless otherwise noted, shall mean the director of planning & development or his/her designee.

Dismantled Vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places without the consent of the owner.

Inoperable Vehicle means any vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked Vehicle means any vehicle that has no resale value or use except as a source of parts or scrap.

Motor Vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious or Toxic Odor, Dust Vapor, Fume, or Mist: Any airborne substance, whether visible or invisible and whether particulate or not, which causes nausea, vomiting, dizziness, headaches, eye or skin irritation, or other physical injury to person.

Noxious Weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current Missouri Department of Agriculture listing.

Person means any corporation, firm, partnership, association, organization, or other group acting as a unit, as well as individuals. It shall include an executor, administrator, trustee, receiver or other representative appointed according to applicable law. Whenever the word "person" is used in any section of this article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of this section.

Portable Storage Unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

Private Property means any property within the corporate limits of the city that is not owned or controlled by a public governmental body.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies, and unenclosed porches.

Recreational Vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Right of Way is any property owned by a public governmental body for the purposes of streets and associated public improvements, alleys sidewalks, pedestrian walkways, and the like.

Rubbish means, with the exception of garbage, combustible and non-combustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery, and other similar materials, and includes the residue from the burning of wood, fossil fuels, and other combustible materials.

Trailer means any vehicle without motor power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed Vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and non-commercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, trailers, and unlicensed vehicles.

Weeds, in the context of this article and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Yard means an open space on the same lot or property as a structure.

Sec. 58-294. Nuisances; general.

- (1) It shall be a violation of this article for any person who is the owner, agent, tenant, occupant, or other person in control of property to create, allow, or maintain a nuisance (as described herein) on such property or on public property.
- (2) Nuisances Generally: The following conditions shall constitute nuisances for purposes of this section.
 - a. Any condition or substance on public or private property that is injurious or dangerous to public health or safety.
 - b. Any condition defined as a nuisance in this article or any code adopted by the city or by the Revised Statutes and decisions of the State of Missouri.

- c. Any substance that generates, emits, or causes noxious or toxic odor, dust, vapor, fume, or mist.
 - d. Any establishment or structure that generates, emits, or causes any noxious or toxic odor, dust, vapor, fume, or mist, or condition.
 - e. Any barn or other place where animal or fowl waste collects in any manner that is not clean and sanitary, or which creates odors (offensive to a person of ordinary sensibilities) that are allowed to escape the premises.
 - f. Deposits of leaves, grass, dirt, or any other material that interfere with the proper functioning of any sanitary or storm sewer improvement.
 - g. Deposits of leaves, grass, dirt, or other materials on a public right-of-way.
 - h. Any accumulation or deposit of foul, dirty, or polluted water or liquid, including stagnant water that does or could afford harborage for the breeding of mosquitoes.
 - i. Any accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.
 - j. Any condition or substance that may generate, transmit, or promote disease, or that may present a safety hazard to the general public.
- (3) Rubbish: Any violation of Section 46-554 of this code (as such Section may be amended from time to time) shall constitute a nuisance for purposes of this section.:
- (4) Weeds and vegetation: The following conditions shall constitute nuisances for purposes of this section:
- a. Grass, weeds, or overgrown vegetation, that exceeds seven (7) inches in height, or which otherwise obstructs the clear sight triangle as shown in the city of Branson Design Criteria for Public Improvement Projects. However, the following conditions shall not be considered a nuisance:
 - 1. All or any part of any lot or tract of land that is a natural forest, within the meaning of this code, or a woodland meadow.
 - 2. All or any part of any lot or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or which is otherwise devoid of improvements (other than fences or sheds).

However, unimproved land, which falls under this exception, shall be maintained in accordance with this article from the centerline of an abutting street or alley by mowing at least five (5) feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater
 - b. Any noxious weeds.

- c. Any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist, or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles, or pedestrians, on any public right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.
 - d. Any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste, unless contained within a composting bin located within the rear yard and at least ten (10) feet from any property line. However, in order to not be considered a nuisance herein, such composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter for rats, mice, or other pests, nor be in violation of any other provisions of the code.
- (5) Vehicles: The following conditions shall constitute nuisances for purposes of this section:
- a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.
 - b. Any vehicle that is displayed for the principal purpose of sale that is either:
 - 1. Not located on a private residential driveway; or
 - 2. Not located on property that is legally licensed and permitted by the city for the sale of vehicles.
 - c. Any vehicle that is parked on a surface other than a public street or driveway, which is surfaced with asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.
 - d. Any vehicle that is dismantled, inoperable, junked, or unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.
 - 1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) days by the owner of the property and that the vehicle is licensed to that owner.
 - e. Any commercial vehicle having more than six (6) wheels or more than two (2) axles, except when present for the purposes of loading and unloading, and which is present for less than five (5) days.

- f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.
- (6) Graffiti. Graffiti as defined in this article is declared a nuisance.
- (7) Portable Storage Units. Any portable storage units that remains on the premises for more than thirty (30) calendar days is declared a nuisance.
- (8) Open Storage. The following conditions shall constitute nuisances for purposes of this section:
- a. The open storage on residential property of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. However, the open storage of usable building materials is permitted on such property if the open storage is for less than thirty (30) days, the building materials are for use on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four (4) feet from ground level.
- b. Any of the following items that remain on such residential property for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for primarily indoor use, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for primarily indoor use, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, tires, tire rims, water heaters, or any other debris.

Sec. 58-297. Enforcement and Abatement.

- A. ENFORCEMENT. The director shall be responsible for enforcement of this article.
- B. NOTICE AND ORDER. When a nuisance as described in this article exists, the director may declare a nuisance exists and give written notice to the owner, agent, tenant, occupant, or other person in control of property, and order such nuisance be removed or abated. Such notice and order must be given to the property's owner.
1. All notices and orders given pursuant to this Section shall be given by one of the following means:
- a. Personal service.
- b. Leaving them at the addressee's usual place of abode with an occupant who is over the age of fifteen (15) years.
- c. Mailing them via both regular first class mail and via certified mail, return receipt requested, postage prepaid, to the addressee. If either one (or both) of such forms of mailing is not returned, such notice shall be deemed

effective. If mail is returned due to refusal, such mailing shall be deemed effective.

When notice cannot be given by one of the means outlined above, then such notice shall be posted on or about the premises described in the notice.

There shall be a rebuttable presumption that any notice sent via regular mail pursuant to this article is received within two business days of its mailing. There shall also be a rebuttable presumption that any notice posted on the premises is received at the end of twenty-four (24) hours after the posting thereof.

If none of those above-stated methods is successful, the director may cause such notice and removal order to be published in a newspaper of general circulation for two consecutive weeks.

2. Such notice and removal order shall, at a minimum:

- a. Declare that a nuisance exists;
- b. Describe the condition that constitutes such nuisance;
- c. Order the removal or abatement of such condition not less than seven (7) days from the date of receipt of such notice;
- d. Describe the location of the property where the nuisance exists (using the street address rather than a legal description when reasonably possible to do so);
- e. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay then the director may cause the condition that constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes, and that such cost shall be a personal debt of the property owner.
- f. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited for violating this article.
- g. State that if the addressee wishes to contest the finding of a nuisance and removal order, he/she must file a written request for appeal with the director, which must be received within seven (7) days from the date the addressee received the notice and order.

C. HEARING

1. If any owner, agent, tenant, occupant, or other person aggrieved by the director's notice and order files a written request for an appeal of such notice and order with the city attorney, which is received within seven days from the date the addressee received such notice and order, such request shall stay any administrative enforcement proceedings pursuant to this article in respect to such notice and order, until such person's appeal is disposed. Failure to file a timely and complete request for appeal shall make such notice and order final for purposes of this article.
2. Such request for appeal must state the applicant's name, mailing address, and a brief description of the applicant's basis for appeal. If the applicant is represented by an attorney, such fact shall also be noted.
3. The director shall give the requesting party reasonable notice of the date, time, and location of such hearing. Any party may be represented by counsel and all parties shall have an opportunity for a full and adequate hearing. The proceeding shall be recorded and all persons giving testimony shall do so by oath or affirmation. Any party may request additional procedures not specifically outlined herein and the director shall consider and timely rule on such requests. Any and all exhibits presented at such hearing shall be made available to adverse parties prior to the hearing.
4. The director shall preside over such hearing, and make written findings of fact based on competent and substantial evidence (as offered at said hearing) as to whether or not a nuisance (as defined by this article) exists on the property in question. If the evidence supports a finding based upon competent and substantial evidence that the conditions described in the notice and order constitute a nuisance on the property in question, the director shall issue a Final Order of Abatement, which shall include the information required to be included in any initial notice and order. The Final Order of Abatement shall be delivered, by person or mail, to each party of the hearing, or their attorney of record.
5. Appeals from the director's Final Order of Abatement shall be made pursuant to Sections 536.100 – 536.140, RSMo, and within the time period described therein. Failure to appeal within such time period shall make such Final Order of Abatement final for purposes of subsection (D).

D. ABATEMENT

1. After the director's order becomes final and if the owner, agent, tenant, occupant, or other person in control of property fails to begin removal or abatement of the nuisance in accordance with the notice and order of abatement within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the director may cause the condition that constitutes the nuisance to be removed or abated. The police department shall be notified of such removal or abatement.

2. If the director causes a nuisance to be removed or abated in accordance with this article and has sent notice and a removal order to the owner in accordance herewith, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this article) to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.
3. The collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.

E. WARRANT

The director may enter upon private property for inspection or for the purpose of inspecting or removing any nuisance in accordance with this article. If any person refuses to allow entry onto his/her private property, the director may obtain an administrative search warrant in accordance with this code and proceed in accordance therewith.

F. EMERGENY ABATEMENT

When the director determines that a nuisance is an imminent threat to the life, health, or safety of the public, he shall not be required to comply with the requirements of this Section prior to abatement of such nuisance.

Section 58-298. This Code to Control in Event of Conflict.

The strictest provisions shall control in the event of conflict of codes and any provision of the adopted International Property Maintenance Code.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A SUBSTITUTE BILL AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO NUISANCES.

FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this substitute bill.



STAFF REPORT:

Presently, the specific codes used by the Code Enforcement department are found in different sections of the Branson Municipal Code, the International Property Maintenance Code, and the International Building Code. The main purpose of this ordinance is to consolidate all current aspects of our nuisance enforcement codes into one document, the Branson Municipal Code, and to expand on these codes to add clarity. The ordinance was also written with a logical flow of information and a consistent layout that improves its user-friendliness. In addition, our increased enforcement activities have brought about some code additions and changes; these include:

- Limiting the maximum size of vehicles parked at residences to those with a maximum of 2 axles.
- Added enforcement actions for dead or dying trees that are a potential safety hazard.
- Not allowing any inoperable, unlicensed or dismantled vehicles on a property (currently allow one).

The ordinance was reviewed by the Tri-Lakes Board of Realtors and their attorney on several occasions with their recommendations incorporated. A detailed legal review of this ordinance, with changes and additions, was provided by Betsy Blake, from the consulting firm of Williams & Campo, P.C.

UPDATE:

Since the December 14, 2010 meeting, staff has been looking at possible changes based on input from the Board and from the public. The changes suggested would provide a more practical enforcement approach and clarify the intent of the nuisance code, and are as follows:

- Remove "unlicensed" from the definition of inoperable vehicles and limit to 7 consecutive days, the time a dismantled vehicle can be on a residential property.
- Remove "vehicle storage" trailers from the definition of nuisance in commercial areas.

- Modify the “portable storage unit” residential requirements to limit them to 30 consecutive days in a 12-month period.
- Remove vehicle surface parking requirement from the front, side and back yard unless it causes damage to the property.
- Remove screening requirements for the rear yard for boats, RV’s and trailers.
- Remove the phrase “half the width of the platted alley . . .” from the definition of rear yard.
- Add definitions of Drip Line and Residential Property.
- Add watercraft to the definition of Vehicle.
- Add allowance for portable storage units when a building permit exists for the property.

STAFF RECOMMENDATION:

Staff recommends approval of the substitute bill.

PROPOSED MOTION:

Move to approve the substitute bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION: Reference Copy Mark-Up Version

REFERENCE COPY
MARK-UP VERSION

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO NUISANCES.

WHEREAS, a need has been determined for regulations and procedures for the upkeep of properties within the city of Branson to provide for the health, safety and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article VIII – *Nuisances* – Section 58-293 – *Definitions*, Section 58-294 – *Nuisances; general* and Section 58-295 – *Enforcement and Abatement* and Section 58-296 – *This Code to Control in Event of Conflict* of the Branson Municipal Code is added as follows:

Sec. 58-293. Definitions.

For the purpose of this article, certain terms and words are hereby defined as follows. Any word not defined herein or in the code shall have its ordinary and usual meaning.

Abatement is the act of eliminating or terminating a condition.

Agent means a person entrusted with another's business. A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons.

Debris means the remains of anything broken down, destroyed, or in ruins.

Director means the person appointed as the director of planning & development, and in the context of this article, unless otherwise noted, shall mean the director of planning & development or his/her designee.

Dismantled Vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

Drip Line (Tree drip line) means the area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.

Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places without the consent of the owner.

Inoperable Vehicle means any self-propelled vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked Vehicle means any vehicle that has no resale value or use except as a source of parts or scrap.

Motor Vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious or Toxic Odor, Dust Vapor, Fume, or Mist: Any airborne substance, whether visible or invisible and whether particulate or not, which causes nausea, vomiting, dizziness, headaches, eye or skin irritation, or other physical injury to person.

Noxious Weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current Missouri Department of Agriculture listing.

Person means any corporation, firm, partnership, association, organization, or other group acting as a unit, as well as individuals. It shall include an executor, administrator, trustee, receiver or other representative appointed according to applicable law. Whenever the word "person" is used in any section of this article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of this section.

Portable Storage Unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

Private Property means any property within the corporate limits of the city that is not owned or controlled by a public governmental body.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot, ~~(in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard)~~ but not including steps, unenclosed balconies, and unenclosed porches.

Recreational Vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Residential Property means property zoned in the City: R-1, R-2, R-3 or any residentially designated area in a Planned Development (PD) or in a Commercial District where the only use of the property is for one or two family dwellings.

Right of Way is any property owned by a public governmental body for the purposes of streets and associated public improvements, alleys sidewalks, pedestrian walkways, and the like.

Rubbish means, with the exception of garbage, combustible and non-combustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery, and other similar materials, and includes the residue from the burning of wood, fossil fuels, and other combustible materials.

Trailer means any vehicle without motor power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed Vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and non-commercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, watercrafts, trailers, and unlicensed vehicles.

Weeds, in the context of this article and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Yard means an open space on the same lot or property as a structure.

Sec. 58-294. Nuisances; general.

- (1) It shall be a violation of this article for any person who is the owner, agent, tenant, occupant, or other person in control of property to create, allow, or maintain a nuisance (as described herein) on such property or on public property.
- (2) Nuisances Generally: The following conditions shall constitute nuisances for purposes of this section.

 - a. Any condition or substance on public or private property that is injurious or dangerous to public health or safety.
 - b. Any condition defined as a nuisance in this article or any code adopted by the city or by the Revised Statutes and decisions of the State of Missouri.
 - c. Any substance that generates, emits, or causes noxious or toxic odor, dust, vapor, fume, or mist.
 - d. Any establishment or structure that generates, emits, or causes any noxious or toxic odor, dust, vapor, fume, or mist, or condition.
 - e. Any barn or other place where animal or fowl waste collects in any manner that is not clean and sanitary, or which creates odors (offensive to a person of ordinary sensibilities) that are allowed to escape the premises.
 - f. Deposits of leaves, grass, dirt, or any other material that interfere with the proper functioning of any sanitary or storm sewer improvement.
 - g. Deposits of leaves, grass, dirt, or other materials on a public right-of-way.
 - h. Any accumulation or deposit of foul, dirty, or polluted water or liquid, including stagnant water that does or could afford harborage for the breeding of mosquitoes.
 - i. Any accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.
 - j. Any condition or substance that may generate, transmit, or promote disease, or that may present a safety hazard to the general public.
- (3) Rubbish: Any violation of Section 46-554 of this code (as such Section may be amended from time to time) shall constitute a nuisance for purposes of this section, except:
- (4) Weeds and vegetation: The following conditions shall constitute nuisances for purposes of this section:

 - a. Grass, weeds, or overgrown vegetation, that exceeds seven (7) inches in height, or which otherwise obstructs the clear sight triangle as shown in the city of Branson Design Criteria for Public Improvement Projects. However, the following conditions shall not be considered a nuisance:

1. All or any part of any lot or tract of land that is a natural forest, within the meaning of this code, or a woodland meadow.
2. All or any part of any lot or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or which is otherwise devoid of improvements (other than fences or sheds).

However, unimproved land, which falls under this exception, shall be maintained in accordance with this article from the centerline of an abutting street or alley by mowing at least five (5) feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater

- b. Any noxious weeds.
- c. Any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist, or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles, or pedestrians, on any public right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.
- d. Any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste, unless contained within a composting bin located within the rear yard and at least ten (10) feet from any property line. However, in order to not be considered a nuisance herein, such composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter for rats, mice, or other pests, nor be in violation of any other provisions of the code.

(5) Vehicles: The following conditions shall constitute nuisances for purposes of this section:

- a. ~~Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.~~
- b. Any vehicle that is displayed for the principal purpose of sale that is either:
 1. Not located on a private residential driveway; or
 2. Not located on property that is legally licensed and permitted by the city for the sale of vehicles.
- c. Any vehicle that is:

1. Causing damage or degradation to the parking area or access route to the parking area, including, but not limited to, ruts in the soil, dead grass or damage to trees, shrubs or other vegetation.
2. Causing damage while parked in an area within the drip line of a tree.
3. Abandoned and the area where it is parked has grass, weeds or overgrown vegetation that exceeds seven (7) inches in height or which otherwise obstructs the clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement projects.

Any vehicle that is parked on a surface other than a public street or driveway, which is surfaced with asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.

d. Any vehicle that is dismantled or inoperable, ~~junked or unlicensed~~, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on ~~the residential~~ property, provided that the work is completed within seven (7) consecutive calendar days by the owner of the property and that the vehicle is licensed to that owner.

e. Any commercial vehicle having more than six (6) wheels or more than two (2) axles, except when present for the purposes of loading and unloading, and which is present for less than five (5) days.

f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.

(6) Graffiti. Graffiti as defined in this article is declared a nuisance.

(7) Portable Storage Units. Any portable storage units located on residential property is declared a nuisance, except: that remains on the premises for more than thirty (30) calendar days is declared a nuisance.

a. When the portable storage unit is present for less than thirty (30) consecutive calendar days in a twelve (12) month period.

b. When a valid building permit is exists for the property.

(8) Open Storage. The following conditions shall constitute nuisances for purposes of this section:

- a. The open storage on residential property of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. However, the open storage of usable building materials is permitted on such property if the open storage is for less than thirty (30) days, the building materials are for use on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four (4) feet from ground level.
- b. Any of the following items that remain on such residential property for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for primarily indoor use, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for primarily indoor use, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, tires, tire rims, water heaters, or any other debris.

Sec. 58-295. Enforcement and Abatement.

- a. Enforcement. The director shall be responsible for enforcement of this article.
- b. Notice and order. When a nuisance as described in this article exists, the director may declare a nuisance exists and give written notice to the owner, agent, tenant, occupant, or other person in control of property, and order such nuisance be removed or abated. Such notice and order must be given to the property's owner.
 - 1. All notices and orders given pursuant to this Section shall be given by one of the following means:
 - a. Personal service.
 - b. Leaving them at the addressee's usual place of abode with an occupant who is over the age of fifteen (15) years.
 - c. Mailing them via both regular first class mail and via certified mail, return receipt requested, postage prepaid, to the addressee. If either one (or both) of such forms of mailing is not returned, such notice shall be deemed effective. If mail is returned due to refusal, such mailing shall be deemed effective.

When notice cannot be given by one of the means outlined above, then such notice shall be posted on or about the premises described in the notice.

There shall be a rebuttable presumption that any notice sent via regular mail pursuant to this article is received within two business days of its mailing. There shall also be a rebuttable presumption that any notice posted on the premises is received at the end of twenty-four (24) hours after the posting thereof.

If none of those above-stated methods is successful, the director may cause such notice and removal order to be published in a newspaper of general circulation for two consecutive weeks.

2. Such notice and removal order shall, at a minimum:

- a. Declare that a nuisance exists;
- b. Describe the condition that constitutes such nuisance;
- c. Order the removal or abatement of such condition not less than seven (7) days from the date of receipt of such notice;
- d. Describe the location of the property where the nuisance exists (using the street address rather than a legal description when reasonably possible to do so);
- e. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay then the director may cause the condition that constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes, and that such cost shall be a personal debt of the property owner.
- f. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited for violating this article.
- g. State that if the addressee wishes to contest the finding of a nuisance and removal order, he/she must file a written request for appeal with the director, which must be received within seven (7) days from the date the addressee received the notice and order.

c. Hearing.

- 1. If any owner, agent, tenant, occupant, or other person aggrieved by the director's notice and order files a written request for an appeal of such notice and order with the city attorney, which is received within seven days from the date the addressee received such notice and order, such request shall stay any administrative enforcement proceedings pursuant to this article in respect to such notice and order, until such person's appeal is disposed. Failure to file a timely and complete request for appeal shall make such notice and order final for purposes of this article.
- 2. Such request for appeal must state the applicant's name, mailing address, and a brief description of the applicant's basis for appeal. If the applicant is represented by an attorney, such fact shall also be noted.

3. The director shall give the requesting party reasonable notice of the date, time, and location of such hearing. Any party may be represented by counsel and all parties shall have an opportunity for a full and adequate hearing. The proceeding shall be recorded and all persons giving testimony shall do so by oath or affirmation. Any party may request additional procedures not specifically outlined herein and the director shall consider and timely rule on such requests. Any and all exhibits presented at such hearing shall be made available to adverse parties prior to the hearing.
4. The director shall preside over such hearing, and make written findings of fact based on competent and substantial evidence (as offered at said hearing) as to whether or not a nuisance (as defined by this article) exists on the property in question. If the evidence supports a finding based upon competent and substantial evidence that the conditions described in the notice and order constitute a nuisance on the property in question, the director shall issue a Final Order of Abatement, which shall include the information required to be included in any initial notice and order. The Final Order of Abatement shall be delivered, by person or mail, to each party of the hearing, or their attorney of record.
5. Appeals from the director's Final Order of Abatement shall be made pursuant to Sections 536.100 – 536.140, RSMo, and within the time period described therein. Failure to appeal within such time period shall make such Final Order of Abatement final for purposes of subsection (D).

d. Abatement.

1. After the director's order becomes final and if the owner, agent, tenant, occupant, or other person in control of property fails to begin removal or abatement of the nuisance in accordance with the notice and order of abatement within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the director may cause the condition that constitutes the nuisance to be removed or abated. The police department shall be notified of such removal or abatement.
2. If the director causes a nuisance to be removed or abated in accordance with this article and has sent notice and a removal order to the owner in accordance herewith, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this article) to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.
3. The collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the

property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.

- e. Warrant. The director may enter upon private property for inspection or for the purpose of inspecting or removing any nuisance in accordance with this article. If any person refuses to allow entry onto his/her private property, the director may obtain an administrative search warrant in accordance with this code and proceed in accordance therewith.
- f. Emergency abatement. When the director determines that a nuisance is an imminent threat to the life, health, or safety of the public, he shall not be required to comply with the requirements of this Section prior to abatement of such nuisance.

Section 58-296. This Code to Control in Event of Conflict.

The strictest provisions shall control in the event of conflict of codes and any provision of the adopted International Property Maintenance Code.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2010.

Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk

William T. Duston
City Attorney

**AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO NUISANCES.**

WHEREAS, a need has been determined for regulations and procedures for the upkeep of properties within the city of Branson to provide for the health, safety and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article VIII – *Nuisances* – Section 58-293 – *Definitions*, Section 58-294 – *Nuisances; general* and Section 58-295 – *Enforcement and Abatement* and Section 58-296 – *This Code to Control in Event of Conflict* of the Branson Municipal Code is added as follows:

Sec. 58-293. Definitions.

For the purpose of this article, certain terms and words are hereby defined as follows. Any word not defined herein or in the code shall have its ordinary and usual meaning.

Abatement is the act of eliminating or terminating a condition.

Agent means a person entrusted with another's business. A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons.

Debris means the remains of anything broken down, destroyed, or in ruins.

Director means the person appointed as the director of planning & development, and in the context of this article, unless otherwise noted, shall mean the director of planning & development or his/her designee.

Dismantled Vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

Drip Line (Tree drip line) means the area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.

Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places without the consent of the owner.

Inoperable Vehicle means any self-propelled vehicle that is abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked Vehicle means any vehicle that has no resale value or use except as a source of parts or scrap.

Motor Vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious or Toxic Odor, Dust Vapor, Fume, or Mist: Any airborne substance, whether visible or invisible and whether particulate or not, which causes nausea, vomiting, dizziness, headaches, eye or skin irritation, or other physical injury to person.

Noxious Weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current Missouri Department of Agriculture listing.

Person means any corporation, firm, partnership, association, organization, or other group acting as a unit, as well as individuals. It shall include an executor, administrator, trustee, receiver or other representative appointed according to applicable law. Whenever the word "person" is used in any section of this article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of this section.

Portable Storage Unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

Private Property means any property within the corporate limits of the city that is not owned or controlled by a public governmental body.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot but not including steps, unenclosed balconies, and unenclosed porches.

Recreational Vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Residential Property means property zoned in the City: R-1, R-2, R-3 or any residentially designated area in a Planned Development (PD) or in a Commercial District where the only use of the property is for one or two family dwellings.

Right of Way is any property owned by a public governmental body for the purposes of streets and associated public improvements, alleys sidewalks, pedestrian walkways, and the like.

Rubbish means, with the exception of garbage, combustible and non-combustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery, and other similar materials, and includes the residue from the burning of wood, fossil fuels, and other combustible materials.

Trailer means any vehicle without motor power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed Vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and non-commercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, watercrafts, trailers, and unlicensed vehicles.

Weeds, in the context of this article and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Yard means an open space on the same lot or property as a structure.

Sec. 58-294. Nuisances; general.

- (1) It shall be a violation of this article for any person who is the owner, agent, tenant, occupant, or other person in control of property to create, allow, or maintain a nuisance (as described herein) on such property or on public property.
- (2) Nuisances Generally: The following conditions shall constitute nuisances for purposes of this section.

- a. Any condition or substance on public or private property that is injurious or dangerous to public health or safety.
 - b. Any condition defined as a nuisance in this article or any code adopted by the city or by the Revised Statutes and decisions of the State of Missouri.
 - c. Any substance that generates, emits, or causes noxious or toxic odor, dust, vapor, fume, or mist.
 - d. Any establishment or structure that generates, emits, or causes any noxious or toxic odor, dust, vapor, fume, or mist, or condition.
 - e. Any barn or other place where animal or fowl waste collects in any manner that is not clean and sanitary, or which creates odors (offensive to a person of ordinary sensibilities) that are allowed to escape the premises.
 - f. Deposits of leaves, grass, dirt, or any other material that interfere with the proper functioning of any sanitary or storm sewer improvement.
 - g. Deposits of leaves, grass, dirt, or other materials on a public right-of-way.
 - h. Any accumulation or deposit of foul, dirty, or polluted water or liquid, including stagnant water that does or could afford harborage for the breeding of mosquitoes.
 - i. Any accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.
 - j. Any condition or substance that may generate, transmit, or promote disease, or that may present a safety hazard to the general public.
- (3) Rubbish: Any violation of Section 46-554 of this code (as such Section may be amended from time to time) shall constitute a nuisance for purposes of this section, except:
- (4) Weeds and vegetation: The following conditions shall constitute nuisances for purposes of this section:
- a. Grass, weeds, or overgrown vegetation, that exceeds seven (7) inches in height, or which otherwise obstructs the clear sight triangle as shown in the city of Branson Design Criteria for Public Improvement Projects. However, the following conditions shall not be considered a nuisance:
 - 1. All or any part of any lot or tract of land that is a natural forest, within the meaning of this code, or a woodland meadow.
 - 2. All or any part of any lot or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or which is otherwise devoid of improvements (other than fences or sheds) .

However, unimproved land, which falls under this exception, shall be maintained in accordance with this article from the centerline of an abutting street or alley by mowing at least five (5) feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater

- b. Any noxious weeds.
- c. Any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist, or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles, or pedestrians, on any public right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.
- d. Any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste, unless contained within a composting bin located within the rear yard and at least ten (10) feet from any property line. However, in order to not be considered a nuisance herein, such composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter for rats, mice, or other pests, nor be in violation of any other provisions of the code.

(5) Vehicles: The following conditions shall constitute nuisances for purposes of this section:

- a. Any vehicle that is displayed for the principal purpose of sale that is either:
 - 1. Not located on a private residential driveway; or
 - 2. Not located on property that is legally licensed and permitted by the city for the sale of vehicles.
- b. Any vehicle that is:
 - 1. Causing damage or degradation to the parking area or access route to the parking area, including, but not limited to, ruts in the soil, dead grass or damage to trees, shrubs or other vegetation.
 - 2. Causing damage while parked in an area within the drip line of a tree.
 - 3. Abandoned and the area where it is parked has grass, weeds or overgrown vegetation that exceeds seven (7) inches in height or which otherwise obstructs the clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement projects.

d. Any vehicle that is dismantled or inoperable unless the vehicle is stored within an enclosed building.

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on residential property, provided that the work is completed within seven (7) consecutive calendar days by the owner of the property and that the vehicle is licensed to that owner.

e. Any commercial vehicle having more than six (6) wheels or more than two (2) axles, except when present for the purposes of loading and unloading, and which is present for less than five (5) days.

(6) Graffiti. Graffiti as defined in this article is declared a nuisance.

(7) Portable Storage Units. Any portable storage unit located on residential property is declared a nuisance, except:

a. When the portable storage unit is present for less than thirty (30) consecutive calendar days in a twelve (12) month period.

b. When a valid building permit is exists for the property.

(8) Open Storage. The following conditions shall constitute nuisances for purposes of this section:

a. The open storage on residential property of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. However, the open storage of usable building materials is permitted on such property if the open storage is for less than thirty (30) days, the building materials are for use on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four (4) feet from ground level.

b. Any of the following items that remain on such residential property for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for primarily indoor use, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for primarily indoor use, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, tires, tire rims, water heaters, or any other debris.

Sec. 58-295. Enforcement and Abatement.

a. Enforcement. The director shall be responsible for enforcement of this article.

b. Notice and order. When a nuisance as described in this article exists, the director may declare a nuisance exists and give written notice to the owner, agent, tenant, occupant, or other person in control of property, and order such nuisance be removed or abated. Such notice and order must be given to the property's owner.

1. All notices and orders given pursuant to this Section shall be given by one of the following means:

a. Personal service.

b. Leaving them at the addressee's usual place of abode with an occupant who is over the age of fifteen (15) years.

c. Mailing them via both regular first class mail and via certified mail, return receipt requested, postage prepaid, to the addressee. If either one (or both) of such forms of mailing is not returned, such notice shall be deemed effective. If mail is returned due to refusal, such mailing shall be deemed effective.

When notice cannot be given by one of the means outlined above, then such notice shall be posted on or about the premises described in the notice.

There shall be a rebuttable presumption that any notice sent via regular mail pursuant to this article is received within two business days of its mailing. There shall also be a rebuttable presumption that any notice posted on the premises is received at the end of twenty-four (24) hours after the posting thereof.

If none of those above-stated methods is successful, the director may cause such notice and removal order to be published in a newspaper of general circulation for two consecutive weeks.

2. Such notice and removal order shall, at a minimum:

a. Declare that a nuisance exists;

b. Describe the condition that constitutes such nuisance;

c. Order the removal or abatement of such condition not less than seven (7) days from the date of receipt of such notice;

d. Describe the location of the property where the nuisance exists (using the street address rather than a legal description when reasonably possible to do so);

e. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay then the director may cause the condition that constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the

same manner and procedure for collecting real estate taxes, and that such cost shall be a personal debt of the property owner.

- f. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited for violating this article.
- g. State that if the addressee wishes to contest the finding of a nuisance and removal order, he/she must file a written request for appeal with the director, which must be received within seven (7) days from the date the addressee received the notice and order.

c. Hearing.

1. If any owner, agent, tenant, occupant, or other person aggrieved by the director's notice and order files a written request for an appeal of such notice and order with the city attorney, which is received within seven days from the date the addressee received such notice and order, such request shall stay any administrative enforcement proceedings pursuant to this article in respect to such notice and order, until such person's appeal is disposed. Failure to file a timely and complete request for appeal shall make such notice and order final for purposes of this article.
2. Such request for appeal must state the applicant's name, mailing address, and a brief description of the applicant's basis for appeal. If the applicant is represented by an attorney, such fact shall also be noted.
3. The director shall give the requesting party reasonable notice of the date, time, and location of such hearing. Any party may be represented by counsel and all parties shall have an opportunity for a full and adequate hearing. The proceeding shall be recorded and all persons giving testimony shall do so by oath or affirmation. Any party may request additional procedures not specifically outlined herein and the director shall consider and timely rule on such requests. Any and all exhibits presented at such hearing shall be made available to adverse parties prior to the hearing.
4. The director shall preside over such hearing, and make written findings of fact based on competent and substantial evidence (as offered at said hearing) as to whether or not a nuisance (as defined by this article) exists on the property in question. If the evidence supports a finding based upon competent and substantial evidence that the conditions described in the notice and order constitute a nuisance on the property in question, the director shall issue a Final Order of Abatement, which shall include the information required to be included in any initial notice and order. The Final Order of Abatement shall be delivered, by person or mail, to each party of the hearing, or their attorney of record.
5. Appeals from the director's Final Order of Abatement shall be made pursuant to Sections 536.100 – 536.140, RSMo, and within the time period described

therein. Failure to appeal within such time period shall make such Final Order of Abatement final for purposes of subsection (D).

d. Abatement.

1. After the director's order becomes final and if the owner, agent, tenant, occupant, or other person in control of property fails to begin removal or abatement of the nuisance in accordance with the notice and order of abatement within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the director may cause the condition that constitutes the nuisance to be removed or abated. The police department shall be notified of such removal or abatement.
 2. If the director causes a nuisance to be removed or abated in accordance with this article and has sent notice and a removal order to the owner in accordance herewith, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this article) to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.
 3. The collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.
- e. Warrant. The director may enter upon private property for inspection or for the purpose of inspecting or removing any nuisance in accordance with this article. If any person refuses to allow entry onto his/her private property, the director may obtain an administrative search warrant in accordance with this code and proceed in accordance therewith.
- f. Emergency abatement. When the director determines that a nuisance is an imminent threat to the life, health, or safety of the public, he shall not be required to comply with the requirements of this Section prior to abatement of such nuisance.

Section 58-296. This Code to Control in Event of Conflict.

The strictest provisions shall control in the event of conflict of codes and any provision of the adopted International Property Maintenance Code.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2011.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

Nuisance Ordinance

- remove “unlicensed” from the definition of inoperable vehicles
- limit time a dismantled vehicle can be on a residential property to 7 days, maximum
- remove “vehicle storage” trailers from the definition of nuisance relative to commercial areas
- modify “portable storage unit” residential requirements to limit their use to 30 consecutive days in a 12-month period
- add allowance for portable storage units when a building permit exists for the property

Nuisance Ordinance

- remove vehicle surface parking requirement from front, side and back yards unless it causes damage to the property
- remove screening requirements for boats, RVs and trailers parked in rear yards
- remove the phrase “half the width of the platted alley” from the definition of rear yard
- add definitions of “Drip Line” and “Residential Property”
- add “watercraft” to the definition of vehicles

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 46, SECTIONS 46-551 AND 46-555 OF THE BRANSON MUNICIPAL CODE PERTAINING TO CONTAINERS.

FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: LEGAL

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

After review of the code and in conjunction with the proposed nuisance ordinance, it became apparent that additional language was needed in code pertaining to commercial dumpsters. Currently, there is no regulation for dumpsters in code. The proposed bill adds regulation of commercial dumpsters, which are those containers that need special machinery to move and would allow them on commercial property. The code would not allow these dumpsters on residential property unless a valid building permit exists for the property.

The proposed nuisance code refers to section 46-554 and with that reference allows for the abatement of issues within that section, which would include the removal of commercial dumpsters if necessary.

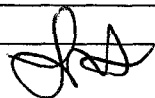
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 46, SECTIONS 46-551 AND 46-555 OF THE BRANSON MUNICIPAL CODE PERTAINING TO CONTAINERS.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 46 – *Health and Sanitation*, Article II – *Public Health and Sanitation Department* – Section 46-551 *Definitions* and Section 46-555 – *Containers* of the Branson Municipal Code is amended as follows:

Sec. 46-551. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Solid waste management system means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by the city or by any combination of the methods set forth in section 46-581.

Residential Property means property zoned in the City: R-1, R-2, R-3 or any residentially designated area in a Planned Development (PD) or in a Commercial District where the only use of the property is for one or two family dwellings.

Sec. 46-555. Containers.

- (a) The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all solid waste, and maintain such containers in good repair, and the area surrounding them in a clean, neat and sanitary condition, at all times.
- (b) The containers and the area around them shall be maintained rodent-proof and free of rodents. Such refuse containers shall be leak-proof, waterproof, and fitted with a lid designed to reasonably prevent the entry of birds and animals, and to prevent the dispersal of refuse onto other properties, both private and public, by wind, water or other reason.
- (c) Containers to be manually lifted shall not exceed 35 gallons in capacity nor weigh more than 65 pounds when full. Waste containers shall be placed at the curb on the day of collection and before such collection. Items which the city or the service does not handle and as set forth in the published rules and regulations shall be safely disposed of by the inhabitants in accordance with the law. Sturdy plastic trash bags, as manufactured for the containment of refuse, may be used as secondary containment and be limited in use to non-food, animal or vegetable waste so as to not attract animals or fowl, and only as permitted by the waste removal service. Where rubbish, such as leaves, grass clippings, tree trimmings, brush, and

the like, which cannot be stored in approved refuse containers because of bulk or weight, such rubbish may be temporarily stored without the use of such containers provided it is neatly stacked and confined, placed so that it does not present a safety hazard, and secured so as to prevent their dispersal upon the premises served, upon adjacent premises, and upon public property.

- (d) Garbage or rubbish generated by a multi-residential complex with four (4) or more dwelling units, or garbage and rubbish generated by commercial properties must: (1) be stored in dumpsters that are leak-proof and fitted with lids designed to prevent the entry of birds and animals; and (2) comply with applicable size, weight, and accessibility requirements of the waste removal service.
- (e) Portable refuse containers (which are containers that can be moved without the use of special machinery) shall not be placed where such containers may interfere with traffic, be on public roadways or where they can cause a safety hazard.
- (f) Commercial dumpsters (which are containers that need special machinery to move) are allowed on commercial property and on residential property when a valid building permit exists for the property.**

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney



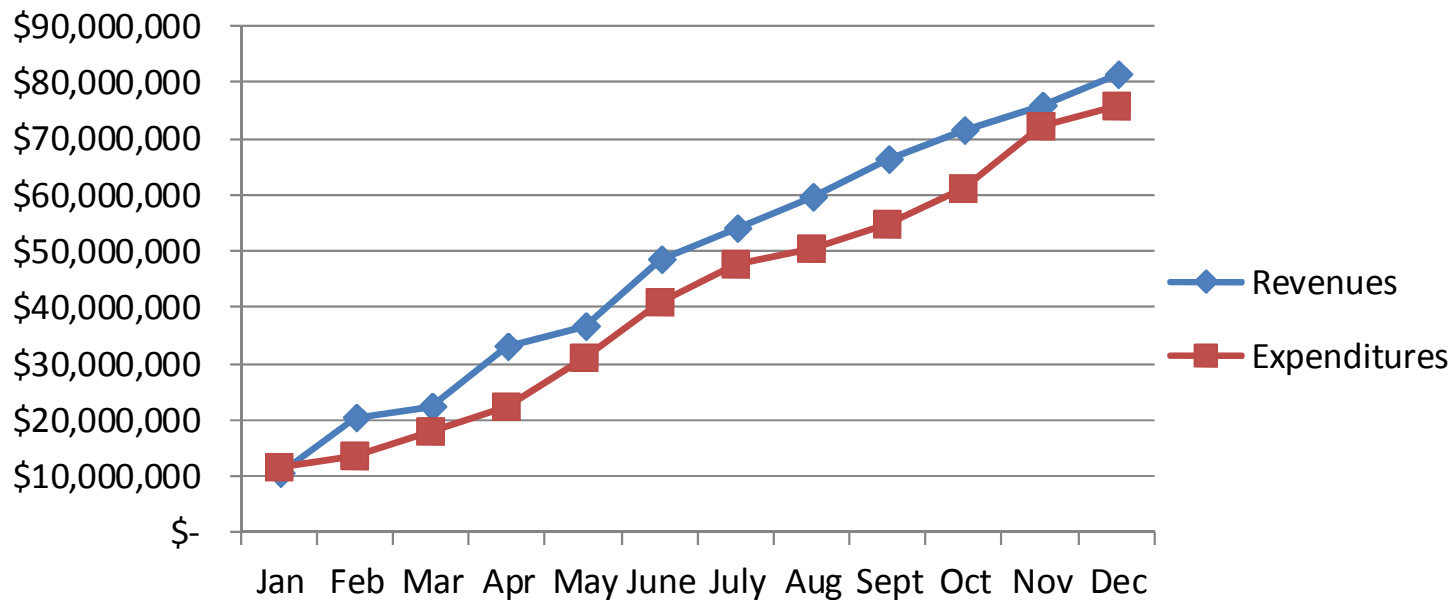
City of Branson

Quarterly Financial Update

December of FY2010

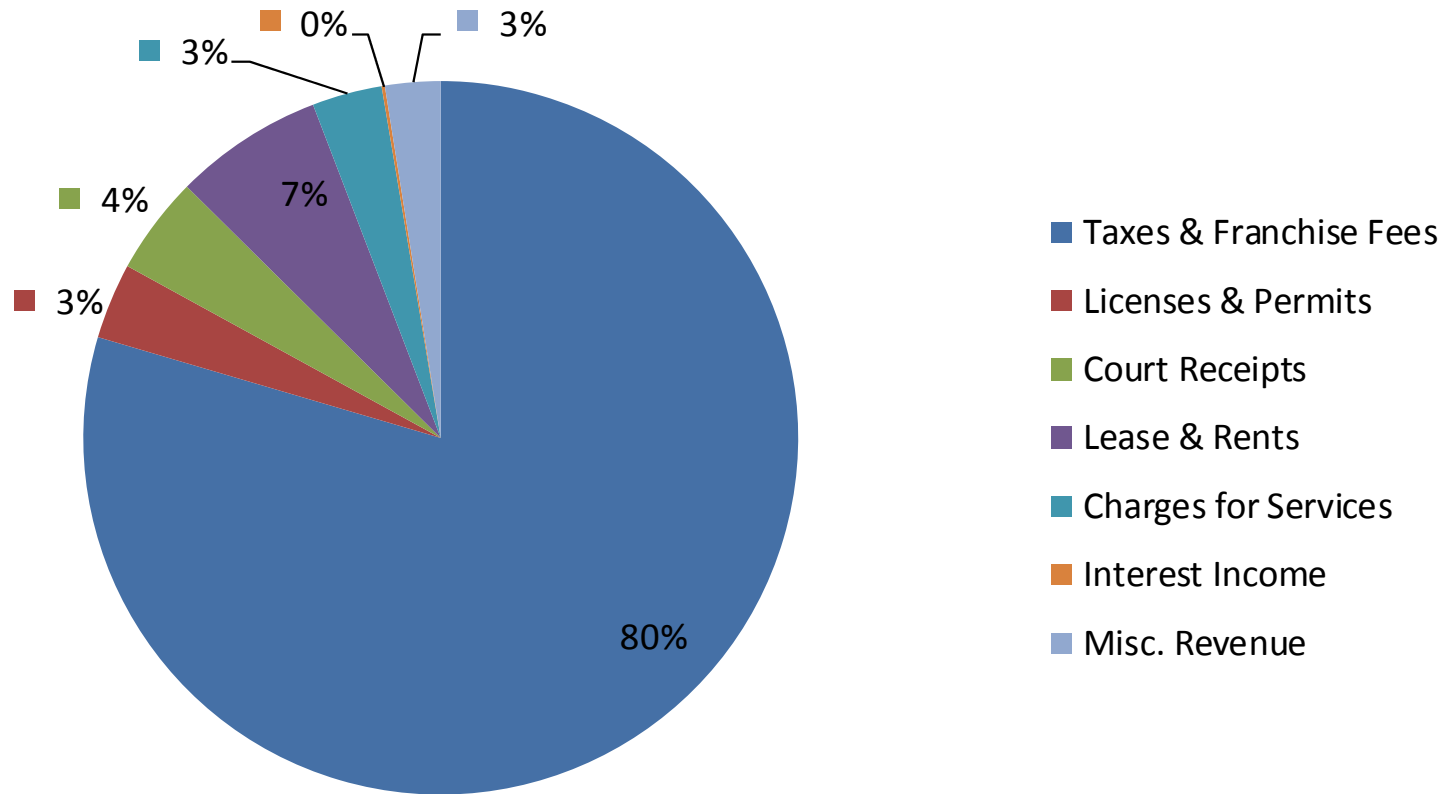
Presented by Finance & Personnel Director
Lori Helle

All Governmental Funds Revenues vs. Expenditures FY2010



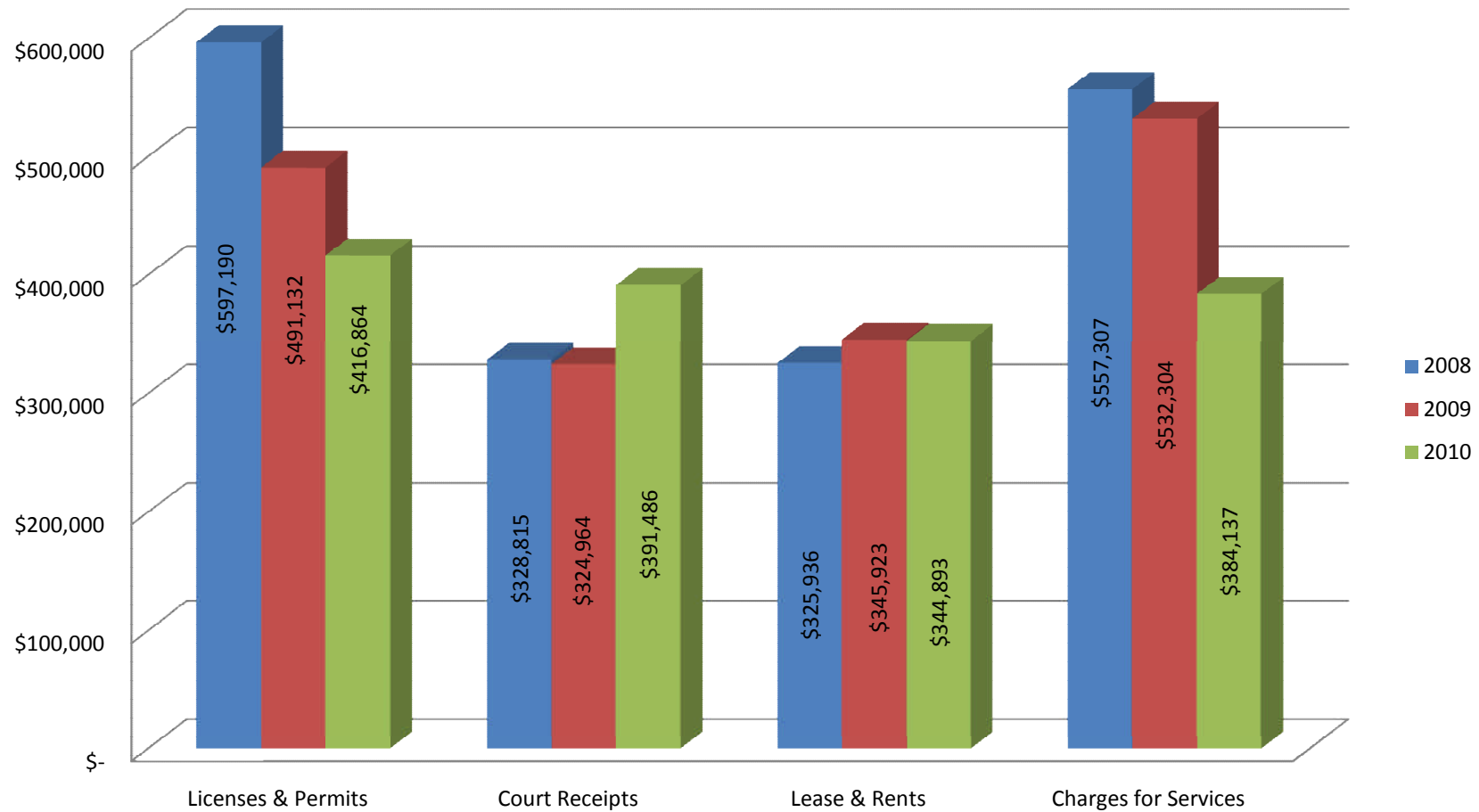
•Revenues--\$81,362,991 Expenditures--\$75,979,394 (both include transfers in/out)

2010 General Fund Revenues as of Dec. 2010



80% Taxes & Franchise Fees—77% is Sales Tax, 17% is Property Tax & 6% is Franchise Taxes (Electric & Cable)

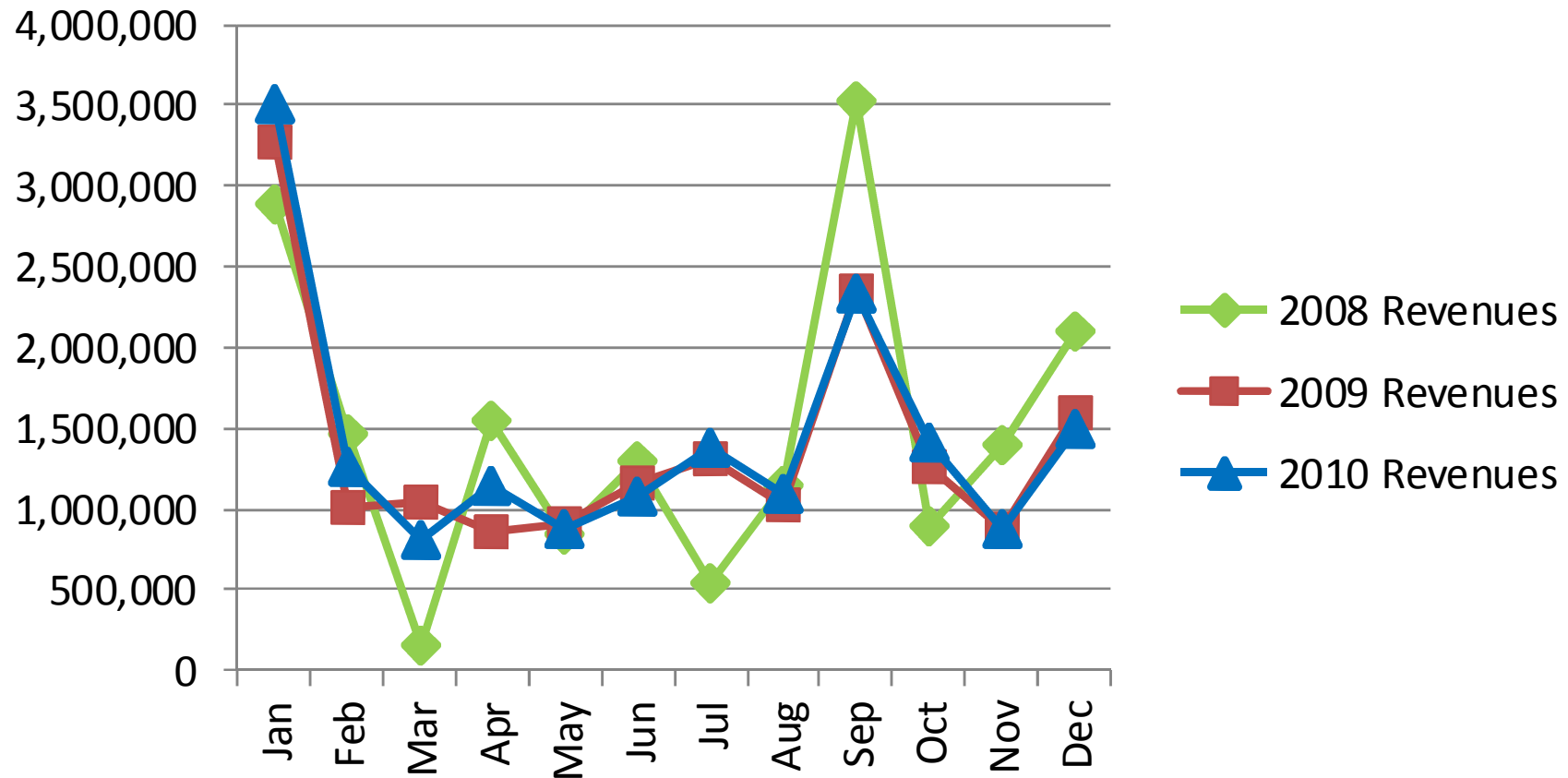
General Fund Revenues by Category



Licenses & Permits—Bldg permits have decr. due to less construction (2008 had Landing & Hills development)

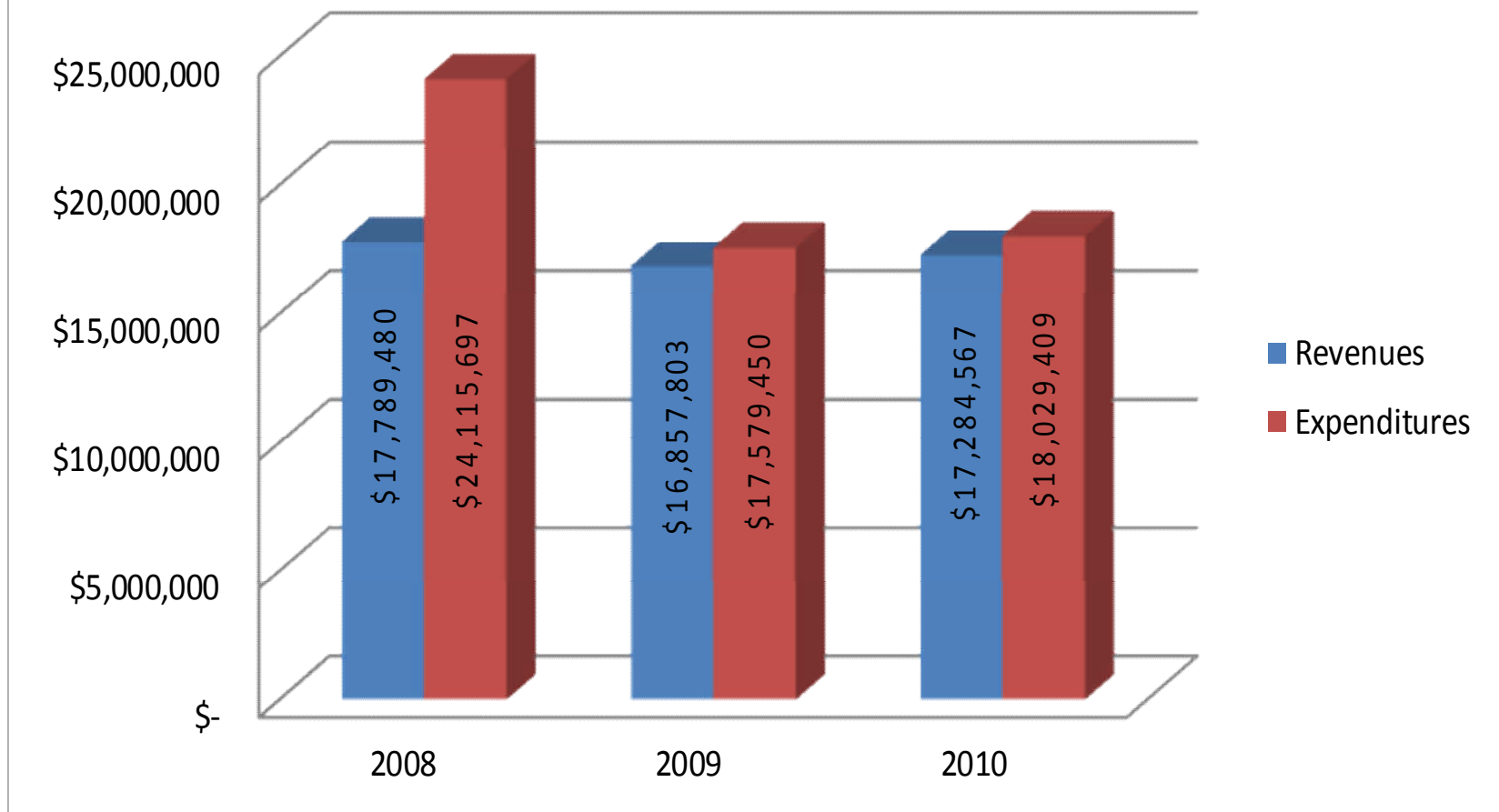
Charges for services—no longer have administrative fee for PK & TDD in 2010

3 Year Monthly GF Revenue Trend



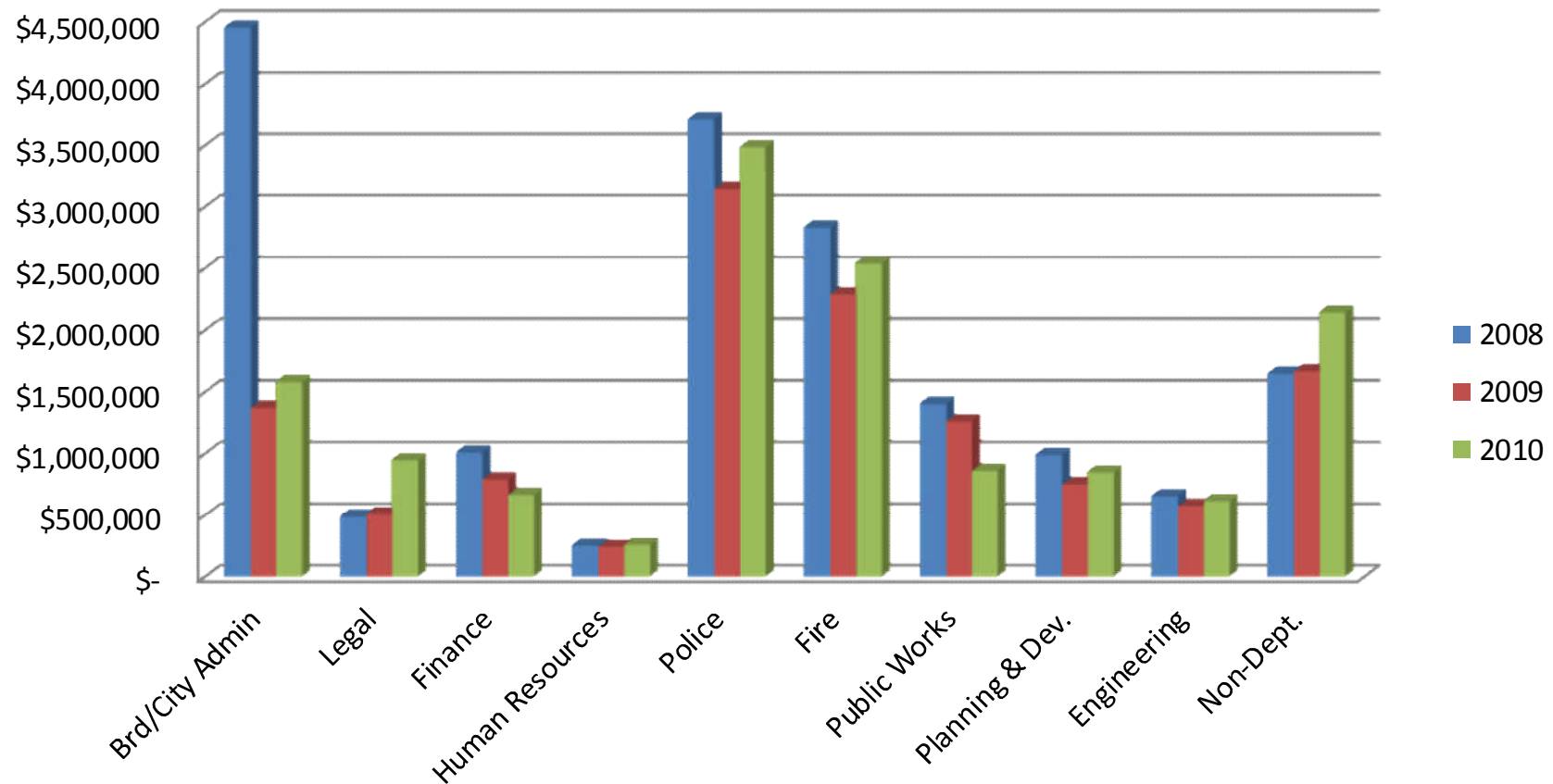
- January & September spikes represent biggest sales tax months

General Fund--December 2010



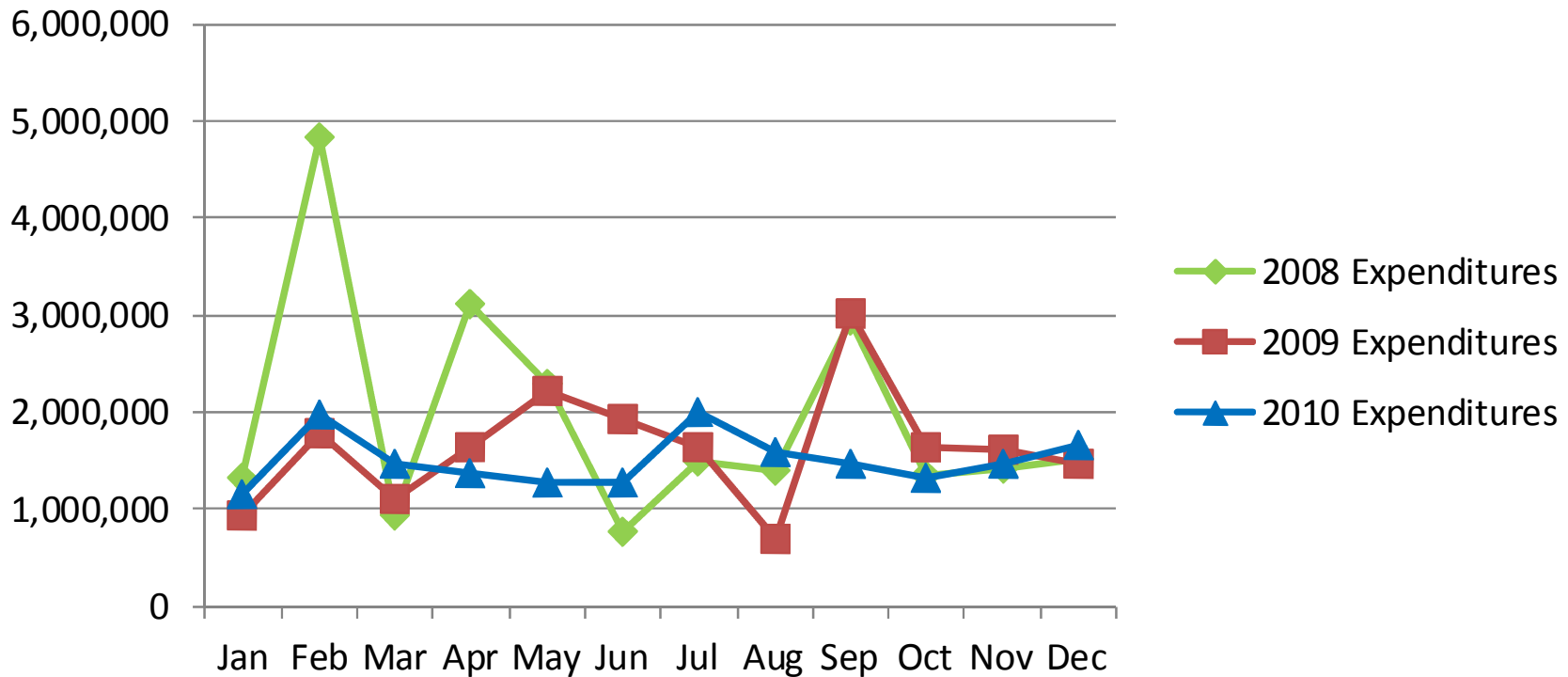
- 2008 Expenditures include: transfer out to Capital & Convention Center Construction
- 2010 Revenues are about \$427K more than 2009 due to increase in grants, more PP Taxes paid in 2010 than 2009 (timing issue), and slight increase in court receipts
- 2010 Expenditures are \$1.1M more than 2009 due to:
 - Owen Property, Legal, BA, PD/CT Expansion
 - However, \$600K savings in PK & BCC transfers for overall increase of only \$500K

General Fund Expenditures by Dept. December 2010



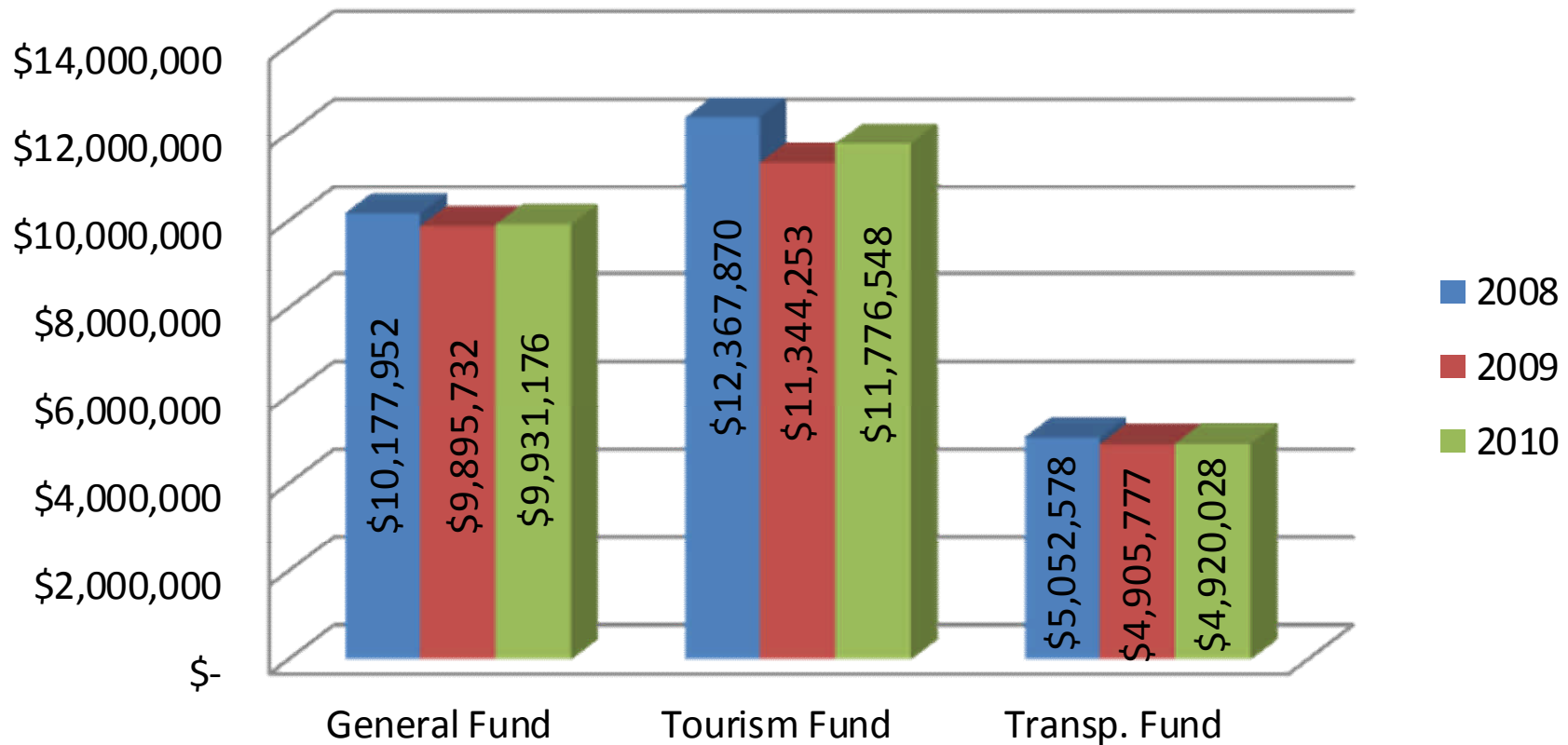
- 2008 - Board/City Admin – includes lump sum paid to Convention Center
- Board/Admin, Legal, HR, PD, FD, Planning, Eng, & Non-Dept are over 2009 Actuals
- Overall, total 2010 operational exp. are under budget by \$759K

3 Year Monthly GF Expenditure Trend



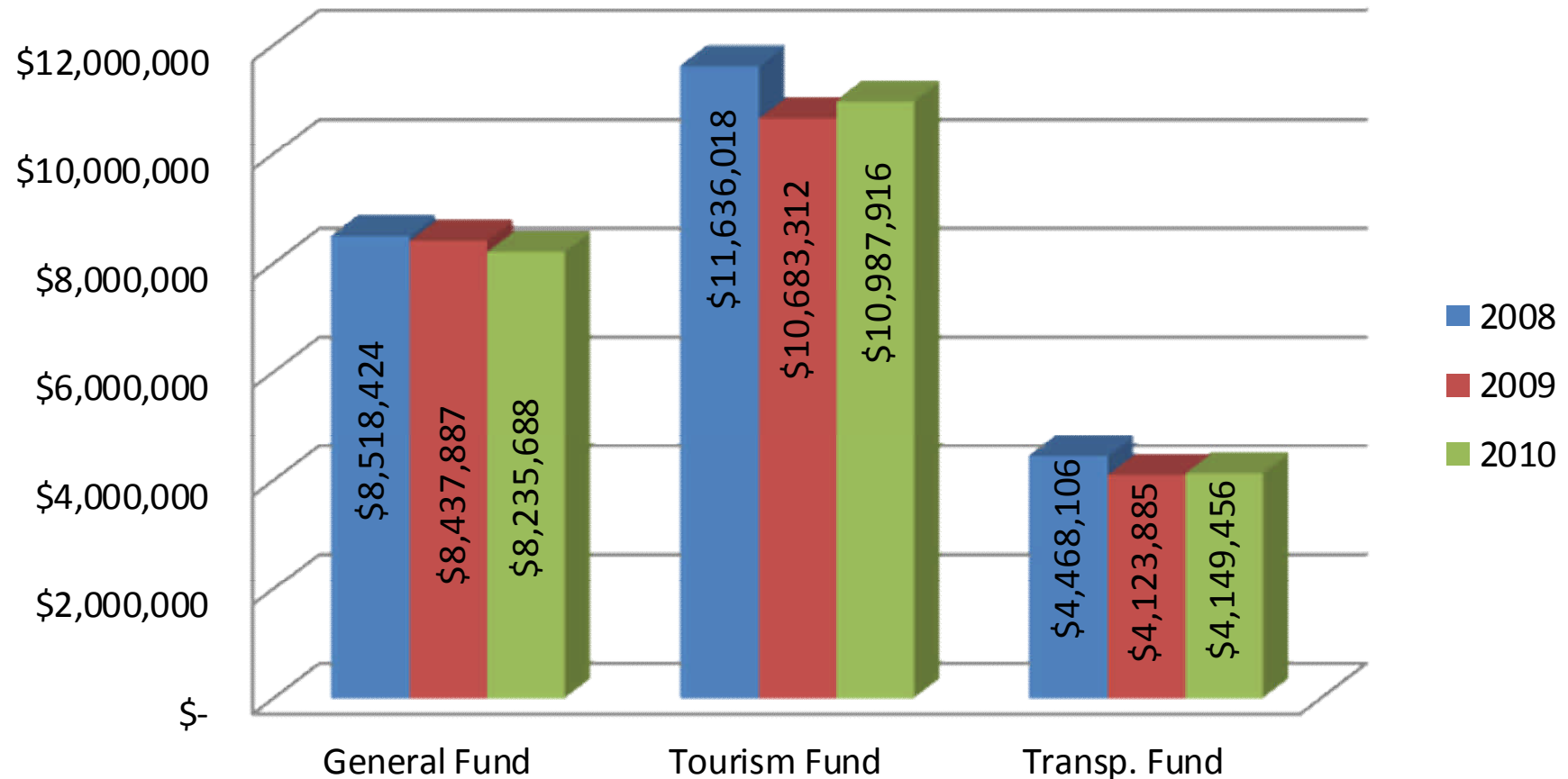
- 2008—expenditures inconsistent due to financial reorganization inconsistencies
- 2009—peaks in May and Sept due to BCC draws
- 2010—peaks in Feb due to BCC draws; July due to insurance & salary adjustments

Gross Sales Tax for all Governmental Funds thru 12/31/10



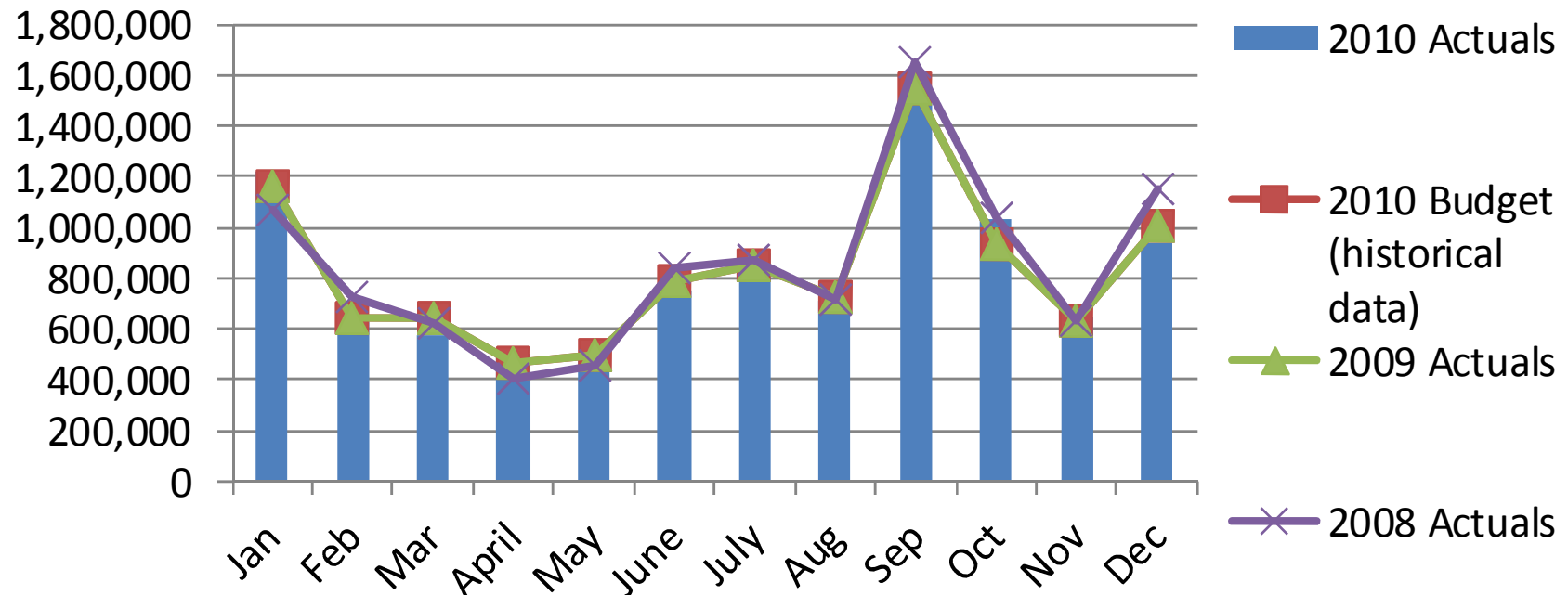
- Dec. 1% down 6.6% for month but up .4% for year (October activity)
- Jan. 1% down 15.5% for month/year (Nov. activity)—includes Music City refunds
- Dec. Tourism up 1.2% for month and 3.8% for year (November activity)

Net Sales Tax for all Governmental Funds thru 12/31/2010



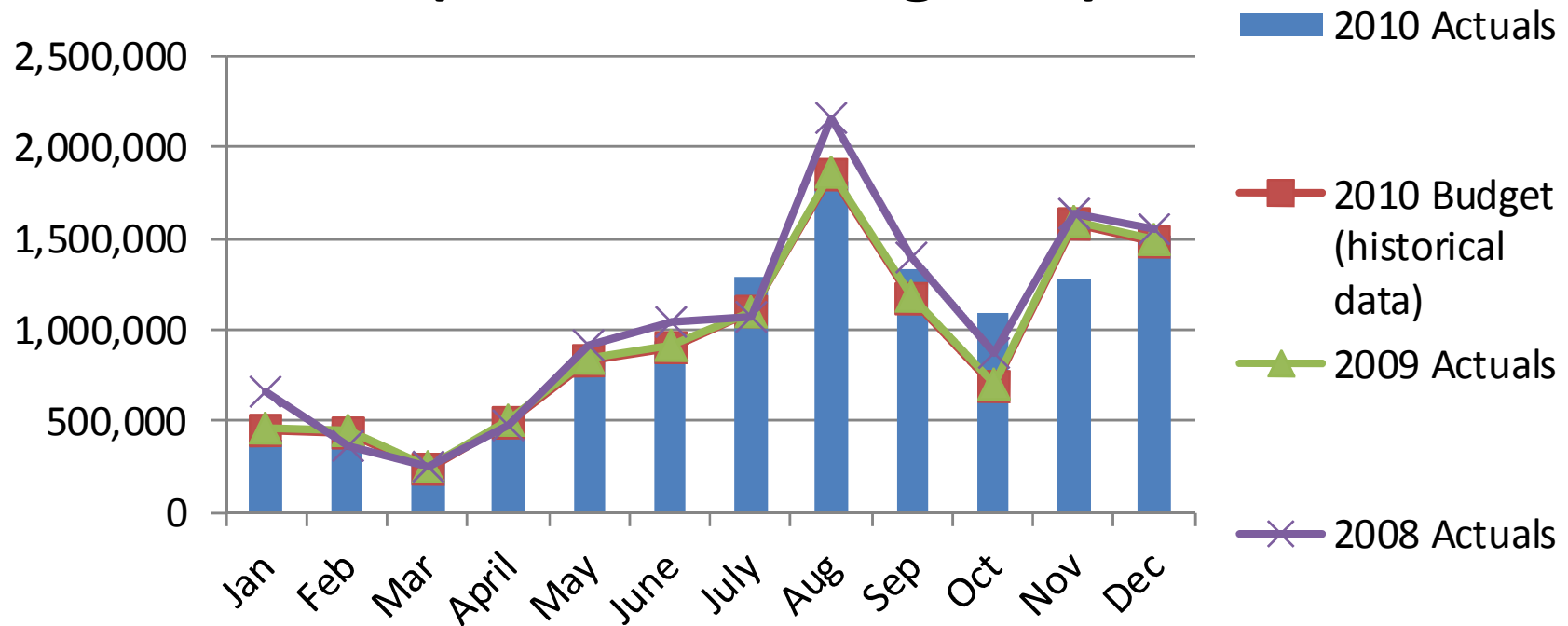
- Net GF Sales Tax numbers are \$202,199 less than last year
- Net Tourism Sales Tax numbers are \$304,604 more than last year

2010 Monthly 1% Sales Tax (Actual vs. Budgeted)



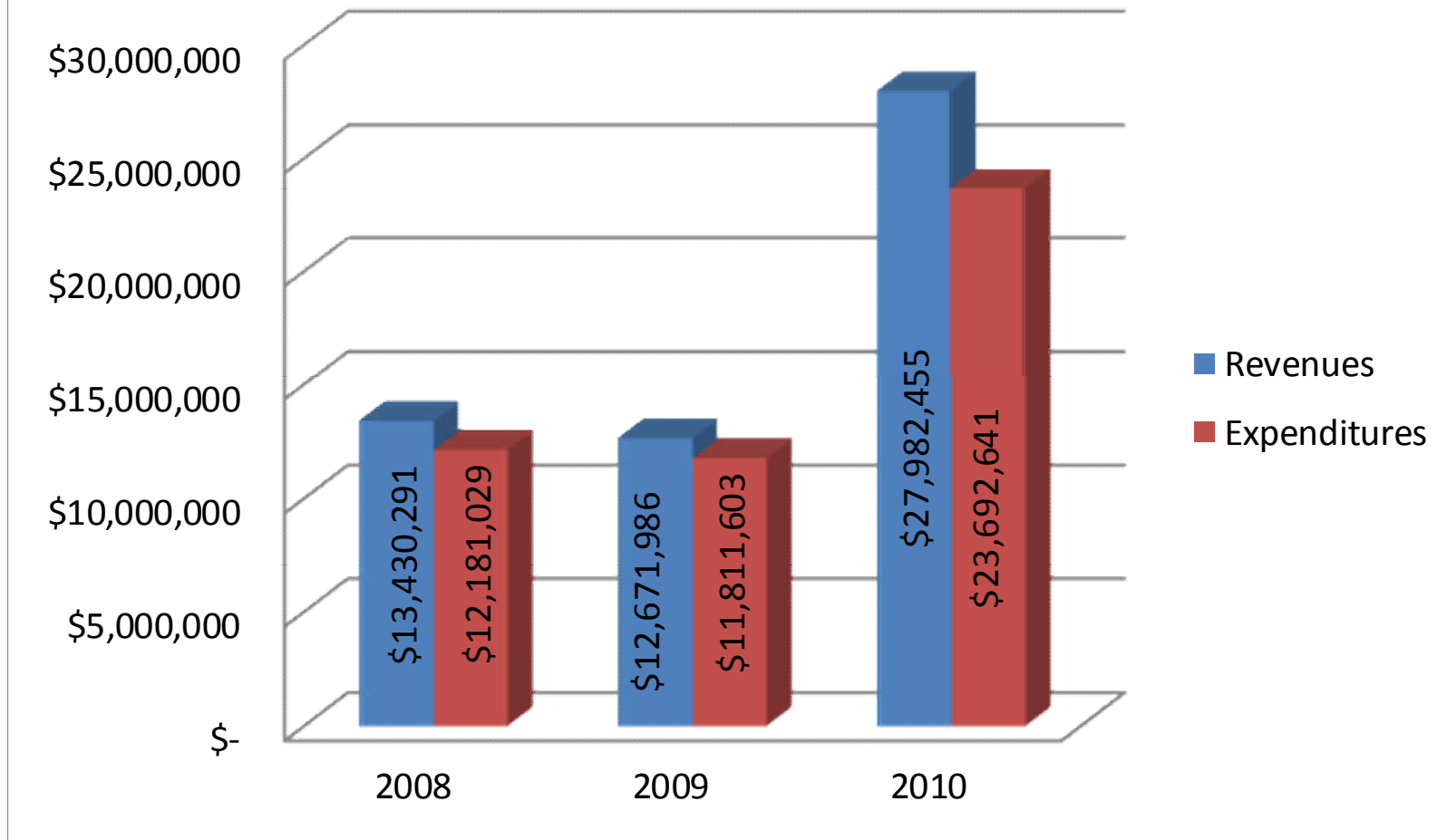
- Overall, 2010 numbers are trending according to historical data (about \$34K more than budget)
- September revenue is peak month (July activity)

2010 Monthly Tourism Sales Tax (Actual vs. Budgeted)



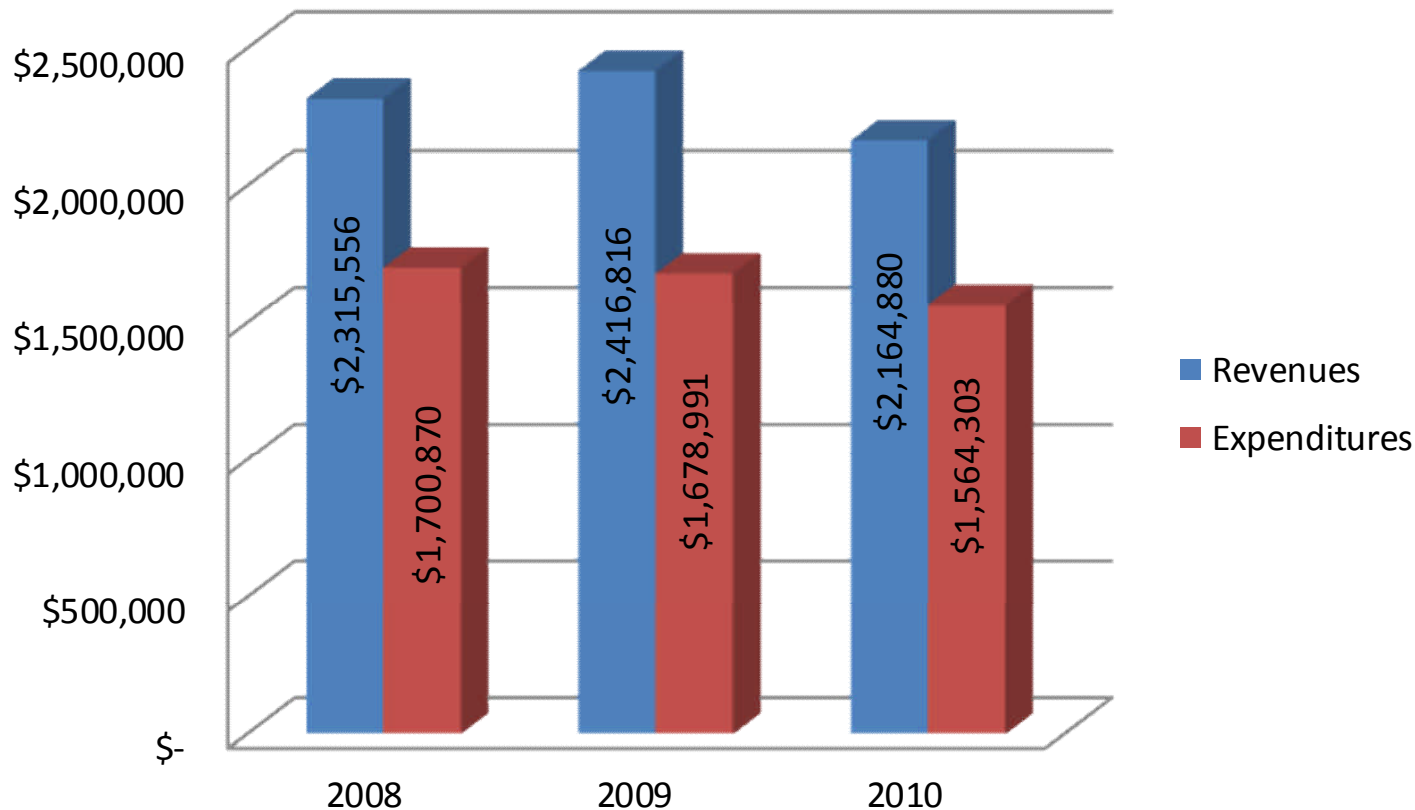
- Overall, 2010 numbers are trending according to historical data, w/ slight increase over budget (about \$600K)
- August revenue is peak month (July activity)

Tourism Fund--December 2010



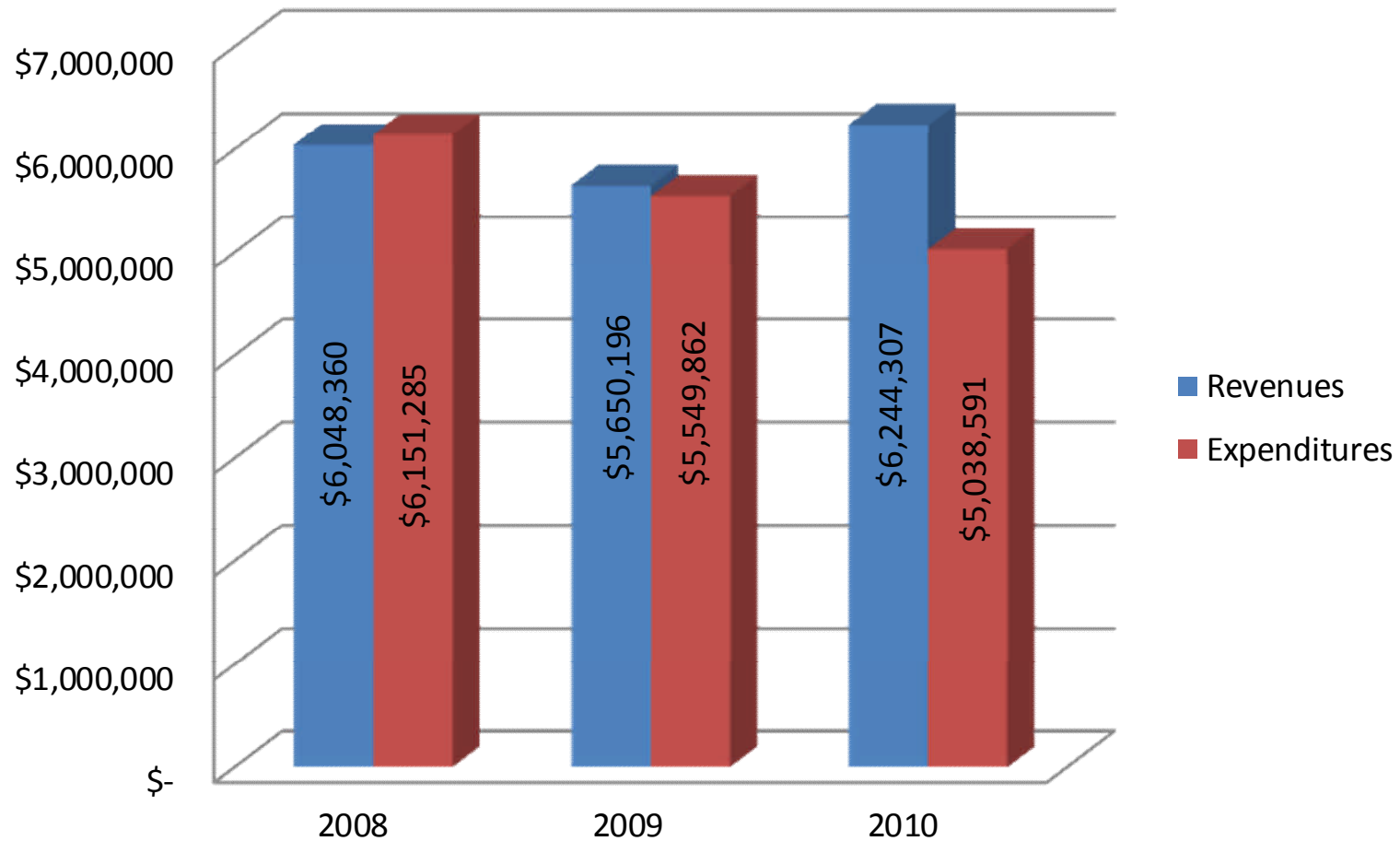
- 2010—includes the refinancing of the 1998B Bonds & new bond (\$15M)
- 2010 Revenues w/out bonds would be \$12.7M, which is \$5K less than 2009
- 2010 Expenditures w/out bonds would be \$8.4M, which is about \$3.4M less than 2009 due to 2009 including a transfer out to Capital Projects of \$3.4M

Park & Rec.-- December 2010



- 2009—the transfer from the General Fund to the Park Fund (revenues) is about \$300K more than the amount from the current year due to the city creating a 20% Reserve Balance per ordinance
- 2010 Revenues are approx. \$57K less than 2009 due to grant received in 2009
- Expenditures are approx. \$69K less than 2009

Water & Sewer--December 2010



- 2010 Revenues are \$594,111 more than 2009
- 2010 Operational Expenditures are \$511,271 less than 2009

Questions?



**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING A PLANNED DEVELOPMENT
AMENDMENT TO PD 2005-003 AUDUBON PLACE AND COVERED BRIDGE
RESORT.

FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This bill approves a Planned Development Amendment to PD 2005-003, known as Audubon Place. The applicant previously amended this PD and received approval from the Board of Aldermen in February 2010, by ordinance 2010-008.

The main component of the proposed amendment is the addition of a single property known as 101 Covered Bridge Drive. The property is approximately 0.694 acres more or less, and is currently located outside the city limits; however, the final reading for its annexation is scheduled for January 25, 2011. The property is bordered by Shepherd of the Hills Expressway's right-of-way to the south and east, and the Audubon Place Planned Development and a ten (10) acre parcel zoned Agricultural to the north. The addition of this property to the PD will allow the applicant to locate the Covered Bridge RV Resort's entrance at a feasible location along Shepherd of the Hills Expressway.

Additionally, other modifications are being proposed as a part of this amendment to better reflect the applicant's current plans. One of these modifications is that the allowable uses within the RV Resort portion are being proposed to be more inclusive of the applicant's intent. Therefore, the following uses are proposed to be added: a general store for Resort guests only, a fenced storage facility for RV related materials, an enclosed storage facility for off-season RV storage and a covered bridge entrance. Other modifications to the PD include the elimination of the private residential collector street classification, the redefinition of street tree requirements and the addition of detailed drawings for proposed structures and elements to be built within the Covered Bridge RV Resort.

This item was heard before the Planning and Zoning Commission on January 4, 2011, and they have recommended approval through Resolution No. 10-5.3 (10-00500003).

PLANNING & ZONING COMMISSION RECOMMENDATION:

By a vote of 9-0, the Planning and Zoning Commission recommends approval of the bill.

STAFF RECOMMENDATION:

Staff recommends approval of this bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:

N/A

**ATTACHED INFORMATION:**

- 1) Vicinity Map
- 2) Planning & Zoning Commission Meeting
Minutes - January 4, 2011 (Item 4)

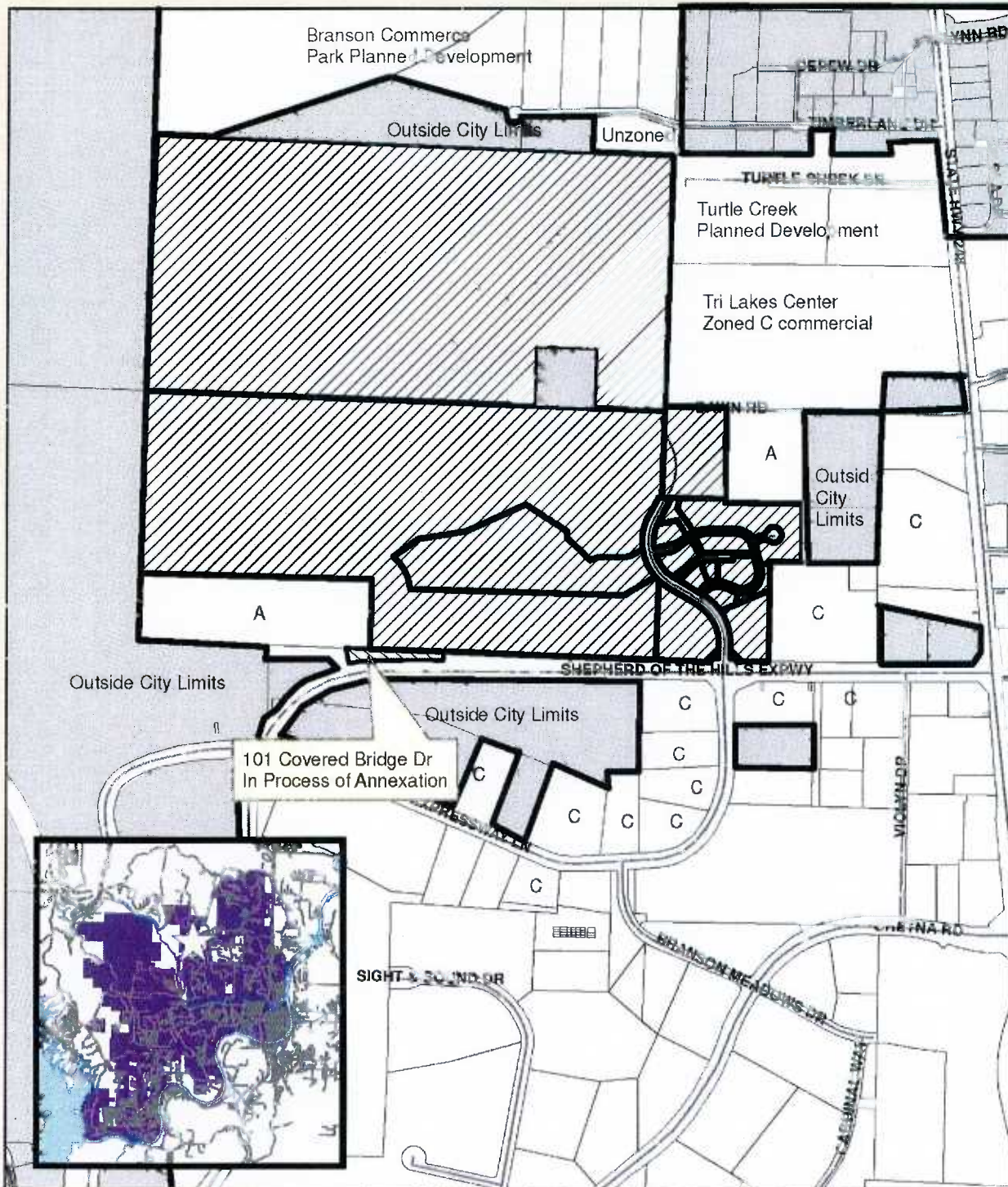
VICINITY MAP

Audubon Place/Covered Bridge Resort City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
December 2010



0 137.5 275 550 825 1,100 Feet



**PLANNING & ZONING COMMISSION
REGULAR MEETING – DRAFT MINUTES
January 4, 2011**

PUBLIC HEARINGS

- 4. Request for a Planned Development Amendment to PD 2005-003 and to include
101 Covered Bridge Drive, Branson, Missouri.
Project No. 10-5.3 (10-00500003)
Applicant: Long Land Ventures**

Mr. Hornickel presented the staff report as filed with the Planning Division. He added that prior to the meeting, Mr. Gary Hall from KAMO Power had expressed concern for the proposed location of an outdoor storage area within their easement on the property. He stated they were uncomfortable with the potential liability issues and therefore requested that it be removed. Mr. Hornickel stated, as a result of the concern, the applicant agreed to remove the storage area from their easement.

Mr. Lawson stated Mr. Yung had done a good job on the tweaking of the development and it would improve it.

Chairperson Harris asked if there were any questions of staff regarding the item; there was no response. He asked if the applicant was present and if they would come forward to answer any questions.

Mr. Bill Yung, Yung Design Group, approached and asked if there were any questions.

Mr. Lawson asked Mr. Yung to read into the record that they had agreed to remove the storage area from the KAMO Power easement.

Mr. Yung stated that after meeting with Mr. Hall, he understood their primary concerns were with liability and access. He added that he did not want to cause any problems, so they had agreed to remove the storage area from the KAMO Power easement.

Chairperson Harris asked if any of the commissioners had any questions for the applicant.

Commissioner Davis asked if they planned to relocate the RV storage area and, if so, would it affect the density of the project in another area.

Mr. Yung stated had not had the opportunity to talk to his client, but he would recommend removing two to three RV sites in different locations and make smaller storage areas within the property. He added they would still plan to pave the areas with a dust-free material, as requested.

Chairperson Harris asked why a change had been made regarding the allowable locations of proposed street trees.

Mr. Yung stated the reason for the change was due to the steepness of the properties where the cottages would be located. He stated the only economical way for them to develop the cottage properties without the use of large stem walls was to move the sidewalks as close as they could to the roadway. He added that, because the sidewalks would then be along the curb, they would then have the space available on the outside of the sidewalks for the trees, if allowable.

Commissioner McDowell asked if the fenced storage facility for RV-related materials would be included in the request.

Mr. Yung stated that was the area they would be removing from the KAMO Power easement.

Commissioner Davis asked if Mr. Yung was agreeable to the third condition that was added to the resolution regarding storm water runoff.

Mr. Yung stated he did not have a problem with the statement.

Commissioner Davis asked if the RV portion of the development would be preceding more of the mixed used residential portion.

Mr. Yung stated both portions would be moving forward concurrently, but they were two different operations. He stated they were building homes within the Audubon portion now, and the Covered Bridge RV Resort would have a separate sales team. He added they were planning to attend a national sales conference in the coming weeks to kick off the project.

Chairperson Harris stated the project had a lot of great potential and that he really liked the design layout. He added it would serve the need of many visitors to the area.

Commissioner Hartley asked if the significant electrical transmission line easements through the property would be a problem.

Mr. Yung stated they would not be and they would not affect the marketing plans for either side of the project.

Commissioner Davis asked for further details regarding the right-hand turn lane into the RV portion off of Shepherd of the Hills Expressway.

Mr. Hornickel stated it was a new addition to the PD. Due to the addition of the covered bridge, they wanted to provide adequate area for stacking RVs entering off of Shepherd of the Hills Expressway.

Commissioner Davis asked when that would occur.

Mr. Yung stated that, as part of the first phase of the development, they would construct a right turn lane for the stacking of two buses, depending on the requirements of the city at the time of project review. He added it would be hard to imagine a flood of RVs arriving all at once.

Commissioner Davis stated he appreciated the addition and it spoke to the potential of making the arrival experience the best possible for those going there. He stated he thought the location for the project was ideal due to its easy ingress and egress.

Mr. Yung stated it would be a five-star resort that would only allow the class A and super C motor homes. He added that fifth wheel trailers would not be allowed to enter the facilities. He stated it would be a membership resort and not an RV park.

Chairperson Harris asked if there was anyone else present who wished to speak in regards to the item; there was no response. He asked if there were any further questions by the Commissioners; there was no response. He entertained a motion.

MOTION:

Motion by Commissioner Davis and seconded by Commissioner Best to approve Resolution 10-5.3 with the modification presented by Commissioner Davis of the items as follows:

1. **The property located at 101 Covered Bridge Drive shall receive approval for annexation into the City of Branson; and,**
2. **In addition to a reserved area of adequate size for storm water facilities shown on the Master Plan (Exhibit A), the following wording shall be added to Section 1.14 of the PD prior to the First Reading of this item to the Board of Aldermen: *“All storm water detention facilities will be constructed by the developer and maintained by the property owners. Detention facilities shall be constructed prior to any activities that would increase the rate of storm water runoff from the site.”***
3. **All conditions of this resolution authorizing the issuance of this Planned Development Amendment shall be met on or before July 4, 2011.**

AYES: Best, Davis, Hartley, Huddleston, Loyd, McDowell, Wescott, Vice-Chairperson Romine and Chairperson Harris.

NOES: None.

ABSTAIN: None.

ABSENT: Woolery.

Motion to approve Resolution 10-5.3 as modified was approved with a 9-0 vote.

BILL NO. 3901

ORDINANCE NO. _____

AN ORDINANCE APPROVING A PLANNED DEVELOPMENT AMENDMENT TO PD 2005-003 AUDUBON PLACE AND COVERED BRIDGE RESORT.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

- Section 1: That PD 2005-003 is hereby amended and is hereto attached as Exhibit '1'.
- Section 2: Severability Clause. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or major sections, sentences, clauses or phrases be declared invalid.
- Section 3: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William Duston
City Attorney



SECOND REVISION

A PLANNED DEVELOPMENT

Audubon Place

and

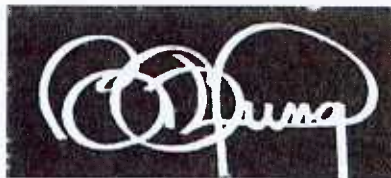
Covered Bridge Resort

PREPARED FOR

LONG LAND VENTURES LLC

200 Big Run Road, Lexington, KY 40503

PREPARED BY



11 January 2011

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com

Page 1 of 63



INDEX

Section 1.00 Regulations Generally Applicable to all Parcels of Land	Page 5
Section 1.01 PD Plan	Page 5
 Section 1.02 Parcel Development Submittals	Page <u>6</u>
Section 1.03 Zoning	Page 6
Section 1.04 Number of Development Parcels	Page 6
Section 1.05 Street Classifications	Page 6
Section 1.06 Setbacks	Page 9
 Section 1.07 Lot Sizes	Page <u>11</u>
Section 1.08 Height	Page 11
 Section 1.09 Vegetation Buffers/Screening	Page <u>12</u>

Section 1.10 Sidewalks	Page <u>12</u>
Section 1.11 Landscaping	Page <u>13</u>
Section 1.12 Local and Private Codes and Ordinances	Page <u>14</u>
Section 1.13 Fire Safety Requirements	Page 14
Section 1.14 Storm Water Detention	Page 14
Section 1.15 Off-Street Parking	Page <u>15</u>
Section 1.16 Special Site Constraints	Page <u>15</u>
Section 1.17 Access and Special Use Easements Granted	Page <u>16</u>
Section 1.18 Signage Regulations	Page <u>16</u>
Section 2.00 Regulations Specific to Each Tract of Land	Page <u>17</u>
Section 2.01 Zoning Uses	Page <u>17</u>
Section 2.02 Parcels – 1 and 2	Page <u>17</u>
Section 2.02 Parcels – 13	Page <u>17</u>
Section 2.02 Parcels – 3,4,5,14,and 15	Page <u>18</u>
Section 2.02 Parcels – 6,7,8,9,10,11 and 12	Page <u>18</u>
Section 2.03 Prohibited Uses	Page <u>19</u>
Section 3.00 Regulations Specific to Infrastructure Construction	Page <u>19</u>
Section 3.01 Platting Requirements	Page <u>19</u>
Section 3.02 Infrastructure Requirements	Page <u>19</u>
Section 3.03 PD Phasing	Page <u>20</u>
Section 3.04 Infrastructure Construction	Page <u>20</u>

Legal Description	Page <u>21</u>
Map Exhibits	Page <u>24</u>
Exhibit A - Project Master Plan (colored)	Page <u>25-26</u>
Exhibit A1 - Project Master Plan (black and white)	Page <u>27-28</u>
Exhibit B - Legal Description	Page <u>29-30</u>
Exhibit B1 - Topography Map	Page <u>31-32</u>
Exhibit C - Land Use Map	Page <u>33-34</u>
Exhibit D - Parcel Map	Page <u>35-36</u>
Exhibit E - Street Map	Page <u>37-38</u>
Exhibit F - Setback Map	Page <u>39-40</u>
Exhibit G - Height Limitations Map	Page <u>41-42</u>
Exhibit H – Park and Open Space Map	Page <u>43-44</u>
Exhibit I - Sidewalk Plan	Page <u>45-46</u>
Exhibit J - Street Tree Plan	Page <u>47-48</u>
Exhibit K - Phasing Map	Page <u>49-50</u>
Exhibit L - Existing Utility Easements	Page <u>51-52</u>
Exhibit M – Landscape Buffer Map	Page <u>53-54</u>
Exhibit N – Entry Monument	Page <u>55</u>
<u>Exhibit O – Covered Bridge Rendering</u>	Page <u>56</u>
<u>Exhibit P – Clubhouse Rendering</u>	Page <u>57</u>
<u>Exhibit Q – Typical Cottage Rendering</u>	Page <u>58</u>
<u>Exhibit R – Sales Center / General Store</u>	Page <u>59</u>
<u>Exhibit S – Typical RV lot Rendering</u>	Page <u>60</u>
<u>Exhibit T – Pad Site Development Options</u>	Page <u>61</u>
<u>Exhibit U – Covered Bridge Cottage Elevations</u>	Page <u>62</u>
<u>Exhibit V – Covered Bridge Elevations</u>	Page <u>63</u>



1.00 REGULATIONS GENERALLY APPLICABLE TO ALL TRACTS OF LAND WITHIN THE AUDUBON PLACE / COVERED BRIDGE RESORT PLANNED DEVELOPMENT

1.01 PD Plan • The revised Audubon Place / Covered Bridge Resort PD Master Plan, attached hereto as **Exhibit "A"**, shall be considered a permanent part of these Land Use Regulations. **Exhibit "A"** reflects the PD Master Plan view for the entire property illustrating the proposed mixed-use development. **Exhibit "A1"** shows the master plan in an uncolored format. The proposed development contains approximately 169.38 acres (more or less) and is described by the legal description attached hereto. The property is currently under development. There are several electrical transmission line easements and an electrical substation located within the PD limits. **Exhibit "B"** shows the legal description in map form. **Exhibit "B1"** is the topographical map of the property.

The property is owned by Long Land Ventures LLC, 200 Big Run Road, Lexington, KY 40503 and is represented by Yung Design Group (Agent) who is filing this application. The parcel of land being added to the PD by this amendment is owned by TrenCap Partners LLC, 200 Big Run Road, Lexington, KY 40503. Any modification to the PD Master Plan involving a change in identified land uses or to the intensity of use shall require approval of the Branson Planning and Zoning Commission and the Board of Aldermen for the City of Branson.

1.02 Parcel Development Submittals • All development plans for projects within the city limits of Branson shall require Planning and Development approval prior to construction. Each phase, regardless of the number of parcels contained therein shall be developed as defined under Section 2.0 of this document.

The illustrated plan (**Exhibit "A"**) represents the approved land use groups that can be developed on this property. If that plan is executed without alterations, it shall serve as the approved development plan allowing construction to commence through the normal permitting process. If that plan, or any phase of that plan is significantly altered (such as a change in use) prior to development, a new PD amendment will be required.

1.03 Zoning • The zoning for the development shall be "PD" Planned Development as defined within the codes and ordinances of the City of Branson and the development of this property shall be constructed under the guidelines established by these Land Use Regulations. The PD includes a mixture of commercial and residential uses. For specific items not covered in these Land Use Regulations, the Zoning Regulations of the Branson Municipal Code, consistent with the approved use of the parcel, shall apply. The listing of approved land use categories referred to in this PD would all normally fall within the general zoning classifications C Commercial and R-3 Residential were it developed under conventional zoning.

The attached map - General Land Use Map **Exhibit "C"** - illustrates the approximate limits of each land use as shown on the PD Master Plan. Specific uses permitted within this PD and those, which are included in the C Commercial and R-3 categories as herein amended, will be defined under Section 2.0 of this document.

1.04 Number of Development Parcels • The proposed development shall consist of fifteen (15) parcels with the permitted land uses as identified on **Exhibit "D" - Development Parcel Map** - attached to this document and as further defined under Section 2 of these Land Use Regulations.

1.05 Street Classifications • Both private and public streets shall be constructed within this PD. The public streets are to be constructed by the developer. Specific design standards for each classification of street that will be allowed in this development shall be as follows:

(A) Public Street Standards • (See Exhibit "E") There are two public street standards permitted within this PD; they are; Residential Collector and local Residential.

Public Residential Collector Street - This classification of street shall apply to the primary access street that end in a round-a-bout within the residential housing section (Audubon Place) of this PD. This street is designed to provide access to the various residential development clusters.

The proposed public residential collector street shall be constructed within a sixty foot (60') ROW providing a pavement cross section a minimum of twenty-eight (28') feet from back of curb to back of curb for a two (2) lane roadway. City of Branson 18" wide curb standards will be used for curb and gutter.

Where the collector street intersects with Shepherd of the Hills Expressway, the pavement may be divided with a five-foot (5') landscape island and a ten foot (10') protected left turn lane. The precise length of widening to be determined at the time of platting. No parking will be permitted on this street. A four-foot (4') sidewalk shall be constructed on both sides of the roadway providing a minimum five-foot strip of grass between the back of curb and the edge of the proposed sidewalk. The final design of this street improvement shall be determined and illustrated at the time of platting. Street trees shall be required on both sides of the street.

- Local Residential Streets - This classification of street shall be constructed as a public street within a twenty-eight foot (28') ROW. The pavement cross section shall be constructed to provide for a minimum of twenty eight feet (28') from back of curb to back of curb for a two lane roadway and a single parking lane on one side of the street. City of Branson curb standards will be used for curb and gutter.

A four-foot (4') sidewalk shall be constructed on both sides of the roadway. Street trees shall be allowed within the grass strip between the back of curb and the sidewalk or on the lot side of the sidewalk. Street trees shall be required on both sides of the street. The developer will install street trees within one year after the construction of the street. For general tree locations see Exhibit "J". Parking is allowed on only one side of the street and will be signed accordingly.

Private Street Standards • The private streets (See Exhibit "E") to be constructed within this development include Private Local Residential Streets, Private Local RV Streets and Private Drives.

- **Private Local Residential Street Standards** • The private local streets (See Exhibit "E") to be constructed within this development (Audubon Place section) shall be constructed with a minimum width of twenty-four feet (24') from back of curb to back of curb without any designated ROW. Parking is not allowed on either side of the street. Parking is only allowed off street or in separate parking lots. City of Branson 18" wide curb standards will be used for

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 -- Fax 417-335-8286 bill@yungdesign.com

curb and gutter. Building setbacks will be measured from the back of curb. All private streets are to be maintained by the homeowners association.

Street trees will be provided where possible on both sides of the street. A four-foot (4') sidewalk will be provided on both sides of the street for those streets where residential units are constructed on both sides of the street. For those streets that only have one side developed with access to residential units, a 4-foot sidewalk shall be constructed only on that side of the street. All private streets will remain private and the City will not be responsible for any maintenance, cleaning, upkeep or other improvements.

• **Private Local RV Street Standards** • The private streets (**See Exhibit "E"**) to be constructed within the RV section (Covered Bridge Resort) of this development shall be constructed with a minimum width of Twenty Eight (28') from back of curb to back of curb without any designated ROW. The only approved deviation from this 28-foot street width will be within the covered bridge where the street width shall be reduced to a 24-foot width. Where this street intersects with Shepherd of the Hills Expressway a two-lane covered bridge shall be constructed to cross the drainage at that location. This Covered Bridge shall consist of two twelve-foot lanes and the roadway clearance shall be a minimum of fourteen feet. It shall be constructed on the property line adjacent to Shepherd of the Hills expressway without any required setback.

A right turn lane shall be constructed on Shepherd of the Hills expressway, the length to be determined at the time of platting and there shall be a minimum of 60 feet of storage between the face of the bridge and the existing back of curb of Shepherd of the Hills Expressway.

A four-foot (4') sidewalk shall be constructed from the sales center/general store parking lot across the private street and then on the west side of the roadway to Shepherd of the Hills Expressway. The location of this sidewalk may vary in distance from back of curb providing a minimum five-foot strip of grass between the back of curb and the edge of the proposed sidewalk. A separate pedestrian bridge shall be constructed across the drainage way connecting to the sidewalk along Shepherd of the Hills Expressway.

Parking is not allowed on either side of the street except that 8-foot wide pull off parking lanes can be added in front of the lots where cottages are to be constructed. The only other parking allowed is to be provided as off street parking or provided in separate parking lots. City of Branson 18" wide curb standards will be used for curb and gutter. Building setbacks will be measured from the back of curb. All private streets are to be maintained by the homeowners association.

Street trees will be provided where possible on both sides of the street. All private streets will remain private and the City will not be responsible for any maintenance, cleaning, upkeep or other improvements.

- **Private Drive Standards** - The private drives developed within this development shall be constructed with a minimum width of twenty-four feet (24') from back of curb to back of curb with parking allowed on either side of all two (2) way streets, and shall be constructed at a ninety degree (90°) angle from the center line of the street and shall be constructed in multiples of not less than five (5) spaces nor more than fifteen (15) spaces without the addition of a planting island. Building setbacks will be measured from the back of curb. All private drives will remain private and the City will not be responsible for any maintenance, cleaning, upkeep, or other improvements.

1.06 Setbacks • Front yard setbacks for all permanent structures shall be measured from the back of curb line of all private streets and drives. There are no setback requirements for Recreational Vehicles in that portion (Covered Bridge Resort) of the development devoted to that use. (**See Exhibit "F"**) The following setbacks shall apply:

1. Front yard setbacks for Single Family dwellings shall be allowed to vary utilizing three setback categories. This variable set back provision will provide variety in house and garage placement minimizing the lining of streets with garage doors.

- a. A **10-foot** setback is allowed providing the garage doors are located at ninety degrees from the street line and served as a side load garage. If the garage doors face the street then the garage will be located at least 20 feet from the back of the curb for both public and private streets allowing for two cars to be parked in front of the garage.

- b. A **15-foot** setback is allowed for the habitable portion of the structure providing that the garage is located at least twenty feet (20') from the back of the curb for both public and private streets allowing for two cars to be parked in front of the garage. This will also permit garages to be placed at the rear of the house should that configuration better serve the development.

- c. A **20-foot** setback measured from the back of curb for both public and private streets is allowed permitting the design of a home where the garage frontage may be in line with the habitable portion of the structure, still allowing for two cars to be parked in front of the garage. There shall be a minimum of five feet between the back of curb and the inside edge (edge closest to the curb) of all proposed sidewalks utilizing the 20-foot set back provision.

2. Front yard setbacks for all cottage units within the RV portion of this development shall be a minimum of thirteen (13') feet from the back of curb of the 28-foot street and it is suggested that this front yard setback be varied from lot to lot, where possible, to better fit the topography as well as to provide a less monotonous streetscape. The front yard setback for any casitas built on RV lots shall be a minimum of ten (10') feet from the back of curb.

3. Front yard setbacks for all apartment or condo residential units shall be a minimum of **20 feet** from the ROW of any street measured from the back of curb of the parking space, except the setback can be reduced to **10 feet** for any stair tower constructed between the building and the parking lot.

4. Side yard setbacks for single-family homes shall be a minimum of **5 feet** if developed on a platted lot or buildings shall be a minimum of **10 feet** apart if sold by the condominium method of sale. Pinwheel units (attached 4-plex units) shall be permitted to have two walls of each unit constructed on property lines. There shall be a minimum of 15 feet between all cottages in the RV section (Covered Bridge Resort) of this development. There are no side yard setbacks on the RV lots.

5. The space between condo, or apartment buildings shall be a minimum of **20 feet** and provision for two buildings being connected with walkways leading to an elevator structure located between the two buildings is permitted.

6. Setback from Development boundaries shall be **25 feet** coinciding with the landscape buffer requirement except it shall be increased to **35 feet** along the Shepherd of the Hills Expressway boundary except for the covered bridge which shall be zero feet setback. A **20-foot** setback shall be used at the perimeter of the electrical substation. A 25-foot setback shall be honored along both sides of the proposed residential collector streets unless it is a side yard setback in which case it can be reduced to **15 feet**.

7. The rear yard setback for all residential units shall be a minimum of **20 feet**. The rear yard setback does not apply to the RV lots.

1.07 Lot Sizes • If single-family units are to be sold as whole ownership, the parcel of land upon which the use is located shall be platted as individual lots. Standard single-family lots within Audubon Place shall have a minimum square footage of 6000 sf. This may be reduced to 5500 sf. for patio homes or zero lot line homes. The minimum lot size for either cottage lots or RV lots within the Covered Bridge Resort shall be 3600 sq. feet. Based upon the subdivision design of Audubon Place within this PD, the average square footage per lot for the

single-family lots is 7366 square feet. Pinwheel units shall have a minimum square footage of 2500 sf for each unit or 10,000 sf for the pinwheel building. Since the minimum lot size has been reduced to 6000 sf for single-family homes, the allowed square footage of each home shall fall between 1100 and 1600 square feet. Walkout basements can be offered on many lots and if that option is selected the smaller foot print will be utilized so that the homes will stay within the same price range as any other homes in the addition.

For those units to be retained as rental property, the parcel they occupy may be platted as a single lot or individual lots. Open space and/or pedestrian walkways shall either be platted as individual lots or as special easements defining the precise use.

The cottage use permitted within the RV section of this development shall consist of only stick built structures, constructed to conform to the Branson Building Codes. The square footage of these cottages shall range between 400 and 650 square feet, not including porches or covered decks. Any future additions or modifications that would increase the habitable size of these cottages is prohibited.

1.08 Height • The maximum height permitted within this development will be measured from the finish floor elevation of the floor that exits directly upon the uphill side of the lot. That height restriction shall be limited to those listed below. **(See Exhibit "G")**

- Parcels 1,3,4,5,6,7,8,9,10,11,12, 14 and 15 **35 feet** for single-family uses, RV Resort Casitas and accessory building uses and for commercial uses. (Maximum of Two Stories)
- Parcel 6 50 feet for the clubhouse and sales center -general store.
- Parcel- 13..... **45 feet** for Pinwheel uses. (Maximum of Three Stories)
- Parcel 2..... **55 feet** for Commercial or apartment uses. (Maximum of Four Stories)

1.09 Vegetation Buffers / Screening • Landscape buffers are required as shown on the attached exhibit and may consist of existing plant material supplemented with new trees and shrubs in combination with earth berms and or fencing or walls. If a wall or fence is provided, the required buffer width can be reduced to **10 feet** for all of the categories listed below. The proposed buffers are as follows.

- A proposed landscape buffer along all exterior property lines except for the street frontage along Shepherd of the Hills Expressway shall be **25 feet**. A 20-

foot buffer shall be provided around the existing electrical substation site and between any commercial use and any residential use.

- A proposed landscape buffer of **20 feet** shall be provided between any condo, or apartment use and single-family use.
- The screening of all electrical transformers, trash collection devices, exposed utility connections, propane tanks or any other service related facility shall be provided. Trash collection devices shall be screened with a six-foot (6') minimum fence or wall. The base of this fence shall be planted with shrubs, vines or other plant material to soften the appearance of these enclosures. All other utility features shall be screened with shrubs. Propane tanks, if used, shall be buried or screened with a 6' masonry wall.

1.10 Sidewalks • Sidewalks, when required within this development shall be constructed in compliance with City of Branson codes and ordinances with the following exceptions. Provisions to alter the precise location of these sidewalks and permission to deviate from city standards are possible if an alternative plan is presented and approved during the building permitting process. A distinction between paved sidewalks and unpaved trails and walkways will need to be identified on the sidewalk plan when submitted during the permitting process. Sidewalks if constructed within a public street ROW (ie. Along Shepard of the Hills Expressway) shall be paved in concrete, however other all weather materials may be used as an accent material. All sidewalks shall be constructed at a minimum of four feet (4') in width unless otherwise noted within this document. The required sidewalks shall be as follows: **(See Exhibit "I")**

- A four-foot (4') sidewalk shall be constructed along both sides of the Private Collector street within the residential portion of the development (Audubon Place) and along the north side of the Shepherd of the Hills Expressway within the limits of this PD if not already constructed. All sidewalks on public streets are to be constructed one foot (1') inside the ROW line or shall be located with a minimum five foot strip of grass between the back of curb and the sidewalk on all private streets unless otherwise authorized by provisions within this PD document.
- A four-foot (4') sidewalk shall be constructed on the side(s) of the street upon which residential units have direct access for all private streets or drives except where parking bays are permitted whereby the sidewalk width shall be increased to six feet 6').
- Sidewalks or trails other than those shown in the open space area within the Covered Bridge Resort will not be required. (See Exhibit I)

All required sidewalks within the PD shall be constructed to satisfy ADA standards where possible. All proposed trails and walkways within the open space areas of this development may be constructed utilizing materials appropriate to the use, i.e. asphalt, bark, mulch, etc.

1.11 Landscaping • All approved parcels within this PD shall be subject to the current adopted City of Branson Landscaping Ordinance with the following exception.

- The developer shall install street trees on all streets constructed within one year after the streets are accepted by the city engineer.
- Street trees (**See Exhibit "J"**) shall be provided along all proposed streets where possible within the development.
- Perimeter landscaping may include earth berms, fences and/or walls as part of the landscape concept.

In order to satisfy the City of Branson's twenty percent (20%) rule, which eliminates the requirement to count existing trees over six (6") inches in diameter, the Owner (or any future owners) must meet the following criteria: The total area indicated as common open space or identified as deed restricted easements for open space and trails shall be used to determine the 20% requirement. Trails, sidewalks or amenity features shall be permitted to be constructed within this designated open space area. In the event that the 20% rule cannot be achieved, the developer has the right to either i) count trees over six (6") inch diameter or ii) use the 40 tree/acre x \$50.00/ tree default.

In evaluating the existing plan, there is a total of 55.07 acres or 32.5% open space shown on the final drawings. Of that total, 18.0 acres are within the Electrical Power line Easements. That leaves a total of 37.07 acres or 21.88% of the open space within the development. Do to the vast amount of un-buildable land, either in open space or electrical easement open space the development is hereby granted the right to use the 20% rule and will not be charged for tree removal on this development.

To insure that trees within the designated open space area are adequately protected, the perimeter of any such area shall be fenced to prevent any construction traffic within the open space boundaries except for that, which is necessary to construct trails, sidewalks or amenity features. Construction parking or traffic and/or the stacking or dumping of construction materials, waste or construction fluids **is not permitted** within any such fenced area.

1.12 Local and Private Codes and Ordinances • In addition to any of the standards identified in these Land Use Regulations, all construction within this PD is subject to all local Codes and Ordinances as adopted the City. However, any amended standards approved by the Board of Alderman and contained within this document shall take president over those previously approved.

In addition to the City of Branson Codes and Ordinances that must be followed, the RV section of this development shall also be controlled by a property owners association that will employ a full time property manager that will be responsible for daily resort operational duties as well as be responsible to insure that all private codes, covenants and restrictions CC&R's) are followed.

| Those private CC&R's shall include a provision that the cottages may only be occupied a maximum of 90 consecutive days by a single entity for up to three times within a calendar year but only if the occupant leaves the property a minimum of fourteen days between each 90 day cycle.

| This provision is required to insure that these cottages are not used as permanent residences while still allowing them to be used as summer or winter homes by the property owners.

1.13 Fire Safety Requirements • All construction shall be in accordance with applicable City of Branson Fire Codes and Ordinances.

1.14 Storm Water Detention • The owner shall insure that the entire PD will comply with the City of Branson storm water detention requirements, however the final design of those detention facilities may include storm water storage in on site detention facilities, in proposed parking lots or may be provided off site by separate agreement, all to be determined during the platting process. It is the intent that the detention requirements will be satisfied by the construction of a detention/lake facility(s) however the final design will be submitted for approval during the permitting process

All storm water detention facilities will be constructed by the developer and maintained by the property owners. Detention facilities shall be constructed prior to any activities that would increase the rate of storm water runoff from the site.

1.15 Off-Street Parking • The off-street parking requirements for this development shall generally follow the intent of the off-street parking requirements as written within the Branson Municipal Code.

Exterior parking stalls for the commercial or multifamily components shall be nine feet (9') wide by nineteen feet (19') long with a twenty-four foot (24') drive permitted between two rows of 90 degree parking. The overall dimension for

this cross section is sixty-two feet (62') in width. The parking bays are to be constructed adjacent to the lay back curb and/or gutter section permitted on all private streets. Parking stops will be required on all parking slabs. Provision for up to 10% of all required parking can be designed for compact cars. If bus parking is being provided, the total number of automobile spaces required can be reduced by fifteen spaces for each bus parking space.

The specific parking requirements per land use that is approved for this development is as follows:

- Apartments – 1.5 spaces per dwelling unit.
- Condos – 2 spaces per dwelling unit.
- Single-family units – 2 spaces per dwelling unit.
- RV use – 1 space in addition to the RV Bus
- Cottages – 1 space per unit
- RV Clubhouse - 4 spaces /1000 sf of which half can be golf cart spaces.
- Commercial uses – 5 spaces per 1000 gross square foot of building.
- Office and sales center uses – 4 spaces per 1000 square foot of building.

1.16 Special Site Constraints • The site has several significant electrical transmission line easements and an electrical substation that will need to be carefully addressed. Some of these easements also contain buried fiber optics lines. The steep ravines will be difficult to build upon and should be left in their natural condition except for street crossings, utility requirements or detention facilities required.

The plan and these regulations have been prepared to permit the construction of the development as it is currently planned. The goal is to provide regulations that will provide quality development standards without unreasonable limits on marketability.

1.17 Access and Special Use Easements Granted • The landscape buffers and/or easements identified at the perimeter of this PD will also permit the construction of sidewalks, earth berms, entrance monuments and signage within those landscape buffers/easements. The entrance monuments shall be platted as separate easements, however the maintenance of those facilities shall be the responsibility of the homeowners association.

This development shall require that all utilities be installed underground. A minimum ten-foot (10') utility easement shall be platted along both the front and rear of all platted residential lots. (Audubon Place)

1.18 Signage Regulations • This development shall generally follow the adopted sign regulations of the City of Branson except for entrance monuments to either Audubon Place or the Covered Bridge Resort, which the following is permitted: (See Exhibit "N")

- The developer can construct entry monuments on both sides of the entry roads to either section of the PD.
- The monuments shall permit signage to be attached to the front face of each monument defining the name of the development.
- The entry monument walls may be constructed to contain a maximum of 160 square feet, not including the stone base.
- Signage shall be single sided (read from one side only) and allowed on both entrance monument walls.
- Entry monuments are allowed at both entrances to the development from Sheppard of the Hills Expressway.
- Entrance signs can be lighted from ground placed lights or an internal lighting system.
- Electrical outlets can be provided to permit seasonal lighting exhibits to be utilized on a temporary basis for each event.
- Landscaping and an irrigation system are allowed.
- The entrance monument and signage to the Covered Bridge Resort may be integral with the Covered Bridge design. In doing so, however, the Covered Bridge does not become part of the overall monument sign and therefore does not fall within the limitations placed upon entrance monuments. (see exhibit O)

Any additional signage and/or regulations shall be prepared and submitted as a PD Amendment at a later date to define all proposed signage within the development.



2.00 REGULATIONS SPECIFIC TO EACH PARCEL

2.01 Zoning Uses • Normal uses allowed in this zoning district that apply to this development are outlined within this text as set forth in the current adopted Zoning Ordinance. Uses allowed in this PD are as follows:

2.02 Specific uses per Parcel - The attached parcel map **Exhibit "D"** illustrates the boundaries for each parcel and the allowed uses for each parcel are described below.

PARCELS –1 and 2

C1 –Commercial uses

1. Any use permitted in the R-3 Multiple Family Residential District of the Branson Municipal Code. Allowed density 16 DU per acre. (incl. apartments, condos, single family homes, patio homes and zero lot line homes)
2. All commercial uses permitted in the commercial zoning district as defined by the City of Branson Zoning regulation.
3. Clubhouse and related recreational facilities; food preparation facilities for residents only and meeting rooms.

PARCELS – 13

R3 – Mutli-Family uses

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com

1. Any use permitted in the R3 Multi-Family Residential District of the Branson Municipal Code Allowing up to 16 dwelling units per acre, for multi-family uses.
2. The specific approved use for this PD is as illustrated and defined as a Pinwheel unit. (Attached 4-plex building)
3. Clubhouse, cabana, swimming pool, playground and related recreational facilities.

PARCEL – 3,4,5,14 and 15

R1 – Single Family Residential.

1. Any use permitted in the R-1 Single Family Residential District. Allowed density 6 DU per acre. (Incl. Conventional single-family homes, cluster single-family homes, patio homes and zero lot line homes)
2. Clubhouse, cabana, swimming pool, playground and related recreational facilities; food preparation facilities for resident's only and meeting rooms.

PARCEL – 6,7,8,9,10,11 and 12

C1 – Commercial Use limited to RV Resort Uses

1. Resort uses permitted in the C Commercial District. Allowed density 6 DU per acre. (Incl. RV Resort lots for sale or rent and Cottage units for sale or rent) Cottages may be constructed on those lots that are illustrated as RV lots on the Master Plan in lieu of being developed as a RV lot.
2. Clubhouse, cabana, swimming pool(s), playground, court games and related recreational facilities; food preparation facilities for resident's only and meeting rooms.
3. Sales center, Rental office and manager's office.
4. General Store – sale of groceries, clothing, gifts, camping supplies other similar commercially related items. Also includes the sale and dispensing of propane. The general store is intended to provide service to owners within the resort or their guests and not to provide service to the general public.
5. Casitas or enclosed outdoor rooms constructed on RV lots to permit a weather protected outdoor living space in addition to the parked Motor Coach. They are stick built and will not exceed 250 square feet.
6. A covered Bridge at the entrance to the Covered Bridge Resort, constructed to permit 14-foot clearance.
7. Parking facilities for RV related materials is permitted on site providing they are not constructed on the KMO electric easement.
8. Enclosed storage facilities for off-season RV storage
9. Maintenance Facilities.
10. Nightly, weekly or monthly rental of lots, RV's or Cottage units.

11. Park and recreational facilities including picnic shelters, gazebos, trails, picnic sites and other similar uses.

2.03 Prohibited Uses

1. Moveable manufactured constructed housing. (Does not incl. temporary job site trailers nor prefab or panelized cottages intended for permanent attachment to foundations.)
2. Nightly rental in R1 and R3 Zoning. (Permitted in Commercial Parcels)



3.00 REGULATIONS SPECIFIC TO INFRASTRUCTURE CONSTRUCTION

3.01 Platting Requirements • A final plat will be prepared in accordance with the current Subdivision Regulations and Codes for the City of Branson in force at the time of platting. The Final Plat shall indicate all streets, lots, drive easements, and utility easements. The developers shall record, at the Taney County Courthouse, the Final Plat and restrictions dedicating those areas and easements. Platting may occur in phases and may include individual lots or multiple lots as a final plat.

3.02 Infrastructure Requirements • All infrastructure shown on the PD Plan, including but not limited to private streets, private drives, curb and gutter, sidewalks, sewer, water, storm drainage, etc., shall be inspected and approved

by the City Engineering Department prior to approval of a building permit. The construction of these improvements shall coincide with the platting within each phase and with construction of the primary improvements within that phase.

3.03 PD Phasing • This project shall be constructed under multiple phases as shown on the phase map attached, however, the order of development, the size and configuration of each phase or the number of phases may change based upon market demand. See **Exhibit "K"**

3.04 Infrastructure Construction • Utility service to each platted lot will be identified by the developer during the platting process. All new utilities shall be installed underground. Review and approval of those plans will follow the normal procedure utilized by the City of Branson. At the time of development, the owner will be responsible for the extension of water and sewer service within each phase of the 15 development parcels, as shown on the PD Plan. This will be required during the building permit process. Final plans for these improvements shall be submitted to city staff for review and approval at that time.

Sewer service will be provided by the City of Branson as per the City of Branson Ordinance 96-057, and ordinance voluntarily annexing property to the City of Branson and the pursuant reference to Section 71.012 RSMO 1969 as amended by laws of 1986 which states that the annexation is reasonable and necessary to the proper development of the city, town or village, and the city, town or village has the ability to furnish normal municipal services to the area to be annexed within a reasonable time.

Since two existing sewer manholes are adjacent to the property, it has been determined that the developer can tie into this system for the existing platted single family phase_for sewer service, and that phase one and phase two Sewer service for the remainder of the site shall be provided according to the redesigned sewer service plan that shall be submitted to the city for approval.

Water service is to be provided by Taney County Water District #3 and final details of the service are to be determined with that board.



LEGAL DESCRIPTION

PROJECT LEGAL FOR THE PLANNED UNIT DEVELOPMENT DOCUMENT.
THIS LEGAL DEFINES THE LAND AREA LIMITS OF THESE REGULATIONS

TRACT 1:

All of the N1/2 of the NE1/4 of Section 25, Township 23, Range22, Taney County, Missouri.

TRACT 2:

All of the S1/2 of the SE1/4 of Section 24, Township 23, Range 22, Taney County, Missouri.

EXCEPT a tract of land situated in the S1/4 of the S1/4 of Section 24, Township 23N, Range 22W, being more particularly described as follows: beginning at the Southeast corner of said Section 24: thence North 88° 46' 56" West along the South line of said Section 24. 374.29 feet for a new point of beginning: thence continues North 88° 46'56" West along said South line, 300.00 feet; thence North 1° 13' 04" East. 300 feet; thence South 88° 46' 56" East, 300.00 feet; thence South 1° 13' 04" West, 300.00 feet to the new point of beginning, also an easement 30 ft. wide being the North 30 ft. of the NW1/4 of the NW1/4 of Sec.

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com

30. Twn. 23, Rng. 21 lying West of the state highway 248 and continuing West along the South line of Sec. 24, Twn. 23, Rng. 22 to provide access of the above described tract from State Highway 248.

SUBJECT to that certain Deed of Trust dated August 2, 1985, and recorded in the real estate records of Taney County, Missouri in Book 334 at Page 541-543.

TRACT 3:

The N1/2 of Lot 3 NW1/4 of Section 30, Township 23, Range 21, Taney County, Missouri. Together with the existing road to access highway 248.

EXCEPT commencing at the Southeast corner of the N1/2 of Lot 2 of the NW1/4 in Section 30, Township 23, Range 21, thence in a Westerly direction along the Southerly line of the said N1/2 of Lot 2 a distance of 252 feet to the point of beginning, thence North 58 feet, thence West 48 feet, thence South 58 feet, thence East 48 feet to the real point of beginning; ALSO EXCEPT a tract of land beginning at a point approximately 741 feet East of the Northwest corner of the NW1/4 of the NW1/4 (or N1/2 Lot 2 of the NW1/4), thence South 800 feet, thence East 400 feet thence North 800 feet, thence West to the point of beginning, in Section 30, Township 23N, Range 21W; ALSO EXCEPT a tract of land situated in the N1/2 of Lot 2 of the NW1/4 of Section 30, Township 23 North, Range 31 West, Taney County, Missouri, being more particularly described as follows: Beginning at the Southeast corner of said N1/2 of Lot 2 NW1/4, thence South 89° 21' 08" West, 252.00 feet, thence North 0° 38' 52" West 58.00 feet, thence South 89°21'08" West 48.00 feet, thence South 0°38'53" East, 58.00 feet, thence South 89°21'08" West 271.50 feet, thence North 0°00'59" East, 536.97 feet (Plat Book 22, page 51, 533.84), thence North 89° 21' 08" East. 565.27 feet (Plat Book 22, page 51, 565.565), thence South 0°38' 52" East 536.94 feet, (Plat Book 22, page 51, 538.91) to the point of beginning, containing 6.94 acres, more or less.

And

EXCEPT a tract of land situated in the North 1/2 of Lot 2 of the NW1/4 in Fractional Section 30, Township 23 North, Range 21 West in Taney County, Missouri, being more particularly described as follows: Beginning at the northeast corner of the North 1/2 of Lot 2 of the NW1/4 of said Section 30, thence South 88° 05'47" West along the north line of said Lot 2 NW1/4. 400.00 feet to the New Point of Beginning; thence south 1°54'13" East 499.09 feet; thence South 88°05'47" West 402.00 thence North 1°54'13" West 499.09 feet; to a point on the North line of the North 1/2 of Lot 2 of the NW1/4 of said section 30; thence

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 -- Fax 417-335-8286 bill@yungdesign.com

North 88°05'47" East along said north line 402.00 feet to the new point of beginning, containing 4.61 acres more or less. Subject to all easements and restrictions of record. ALSO together with the existing road easement to access highway 248.

Tract 4 - SCB, L.C. Tract

A tract of land being part of the South 1/2 of the Northeast 1/4 of Section 25, in Township 23 North – Range 22 West, Taney County, Missouri and being more particularly described as follows:

BEGINNING at the intersection of the right-of-way line of the relocated Shepherd of the Hills Parkway with the North line of said South 1/2 of the Northeast 1/4 of Section 25, said point being distant North 87° 59' 04" West, a distance of 1106.02 feet from the Northeast corner thereof and being the Northeast corner of property of SCB, L.C. as described in the deed recorded as document number 2007L52080 in the Taney County Records; thence along said right of way line of the relocated Shepherd of the Hills Parkway and the boundary lines of said SCB, L.C. property the following courses and distances: South 00° 12' 59" East, a distance of 49.54 feet, South 89° 44' 37" West, a distance of 326.34 feet, along a curve to the left having a radius of 720.00 feet, an arc length of 157.51 feet, a chord which bears South 83° 27' 48" West, a chord distance of 157.19 feet and North 12° 37'21" West, a distance of 88.69 feet to the aforesaid North line of the South 1/2 of the Northeast 1/4 of Section 25, being also the Northwest corner of aforesaid SCB, L.C. property; thence South 87° 59' 04" East, a distance of 502.01 feet along said North line of SCB, L.C. property and the said North line of the South 1/2 of the Northeast 1/4 of Section 25 to the point of BEGINNING and containing 30,237 square feet or 0.69 acres more or less.

**EXHIBITS
AS
REFERENCED IN NARRATIVE**





COLOR MASTER PLAN

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



EXHIBIT
A

AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP
110 WEST ADAMS, STE 102
BRANSON, MO 65616
417-335-8235

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com

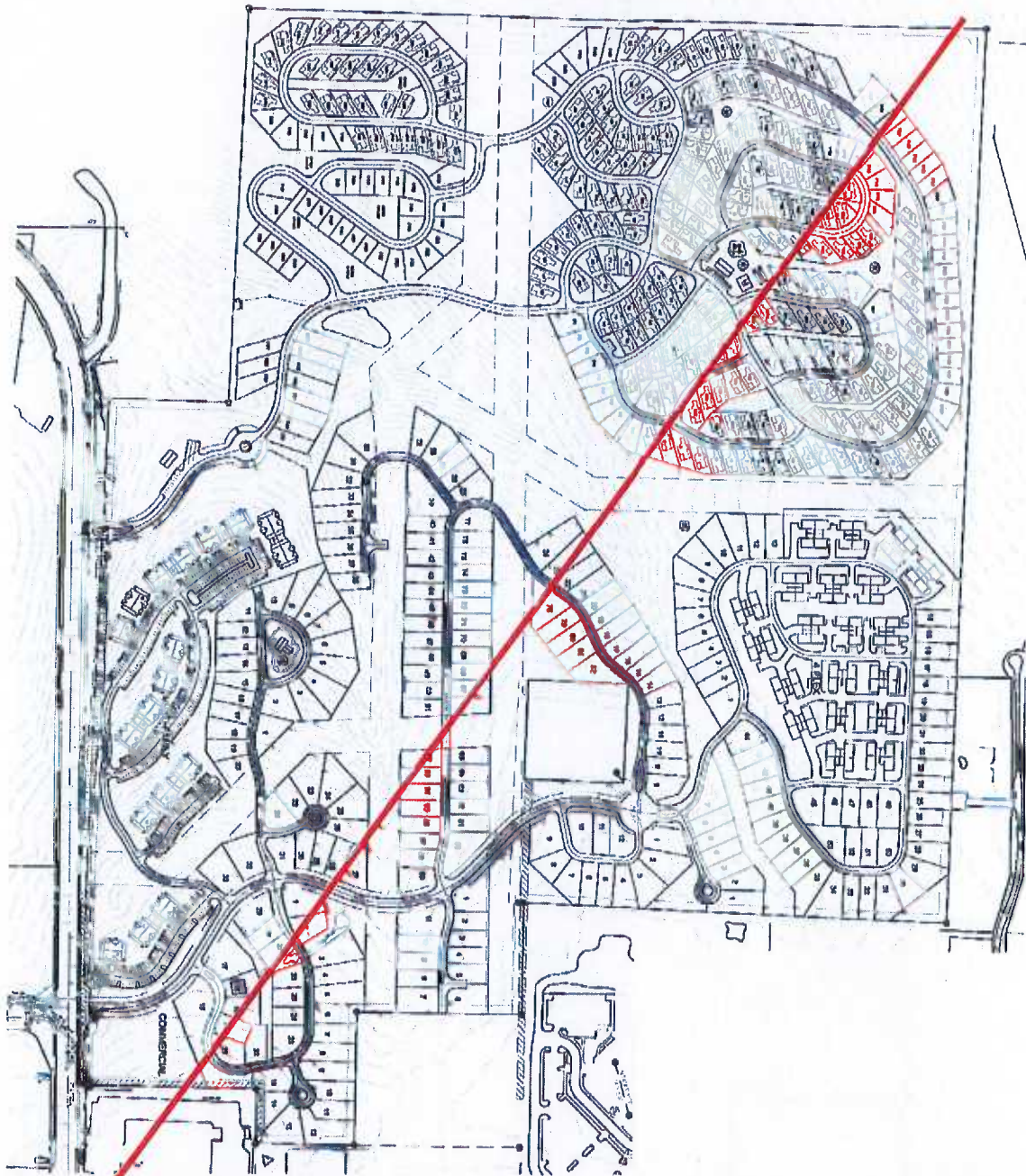


EXHIBIT
A1

MASTERPLAN

AUDUBON PLACE

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY





MASTER PLAN

NOT TO SCALE -
 FOR REPRESENTATIONAL
 PURPOSES ONLY



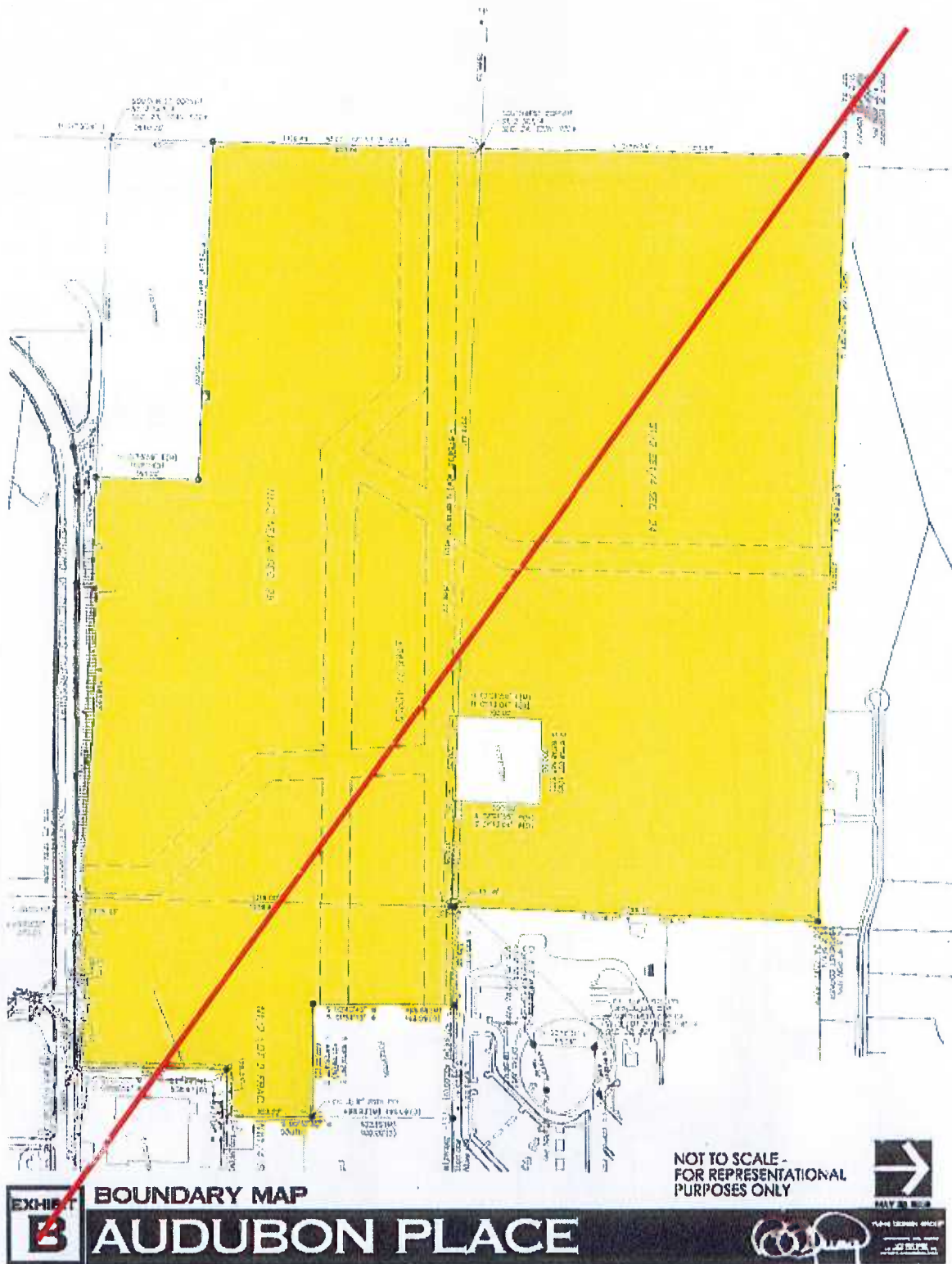
EXHIBIT
A1

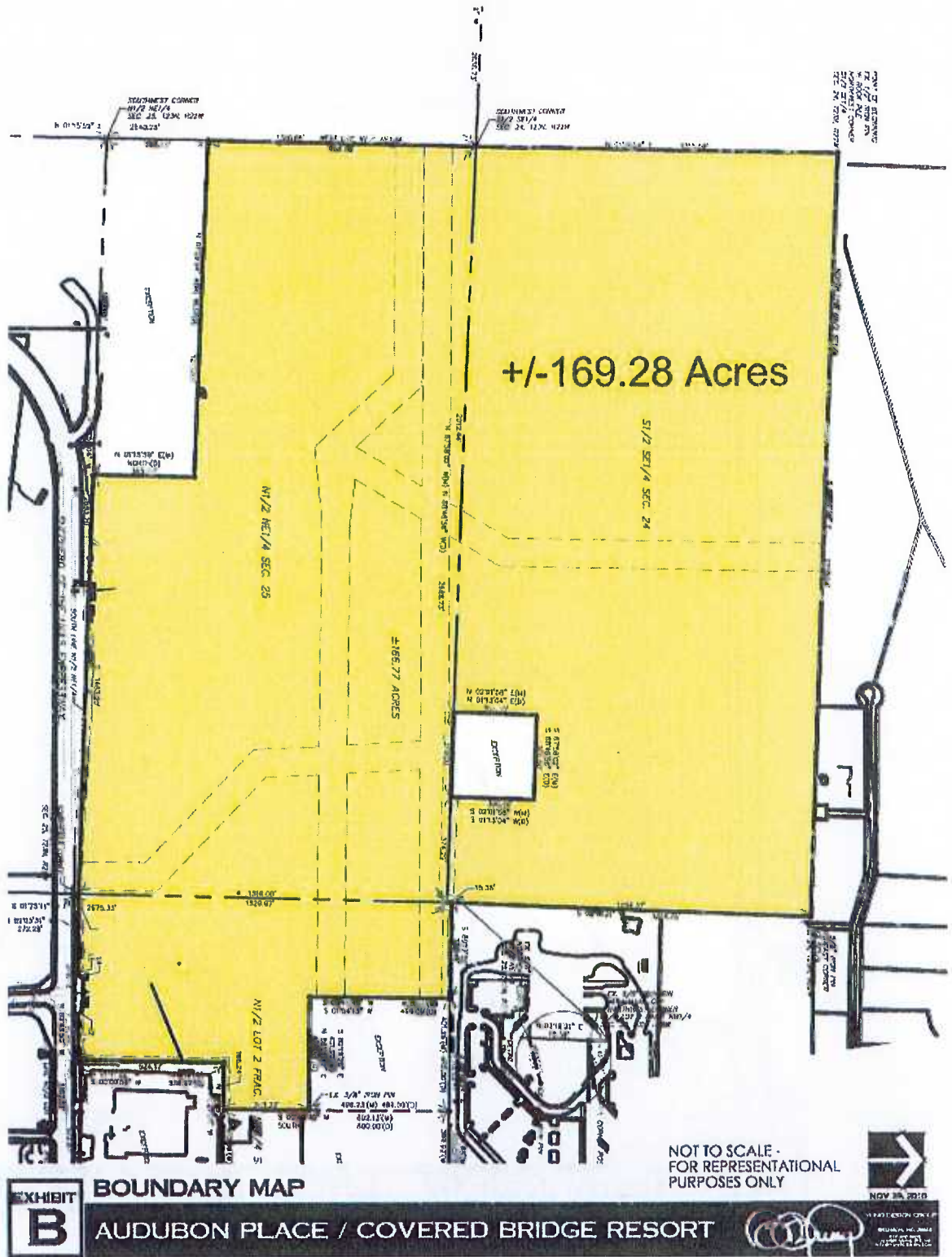
AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

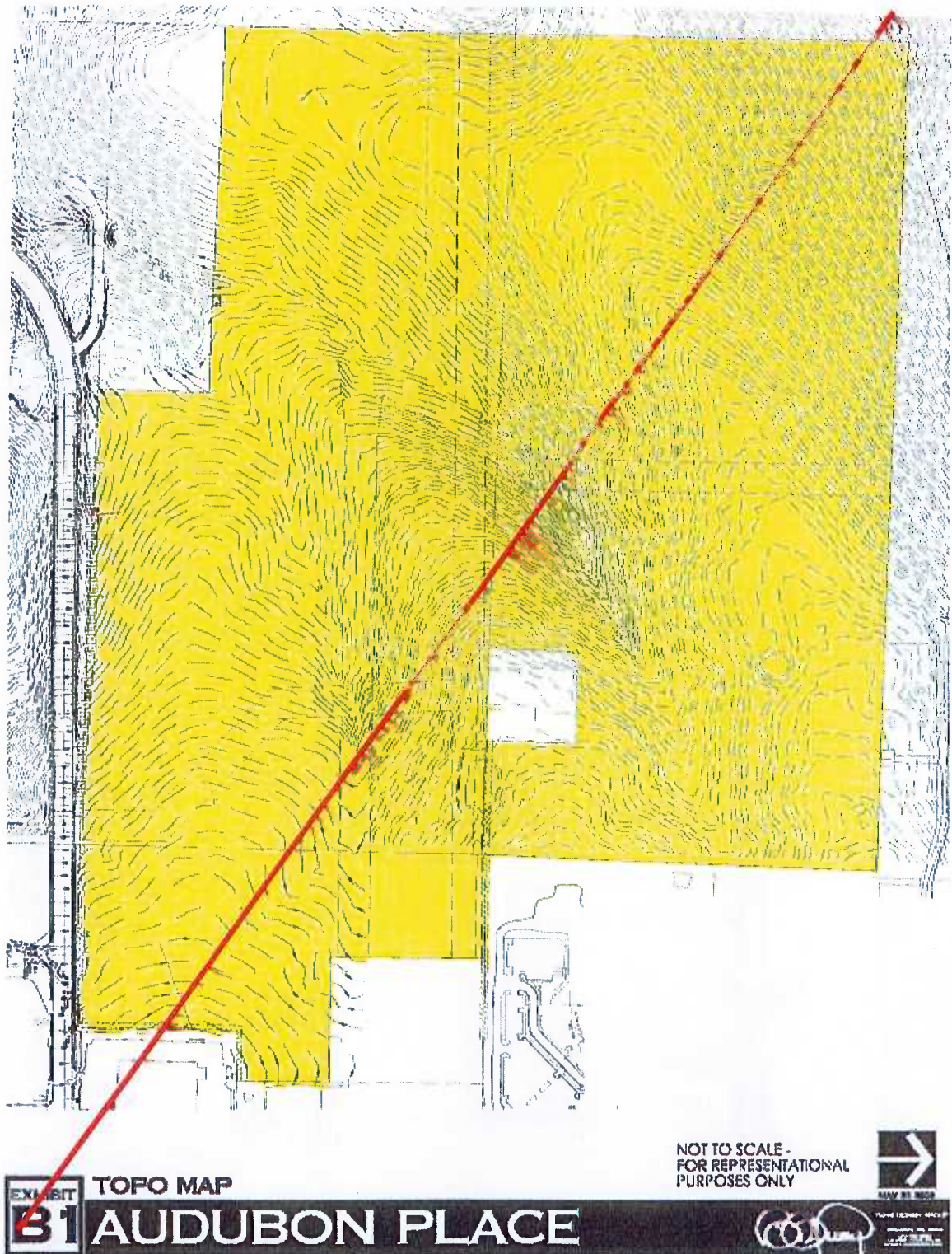
417-335-8235 - Fax 417-335-8286 bill@yungdesign.com





YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



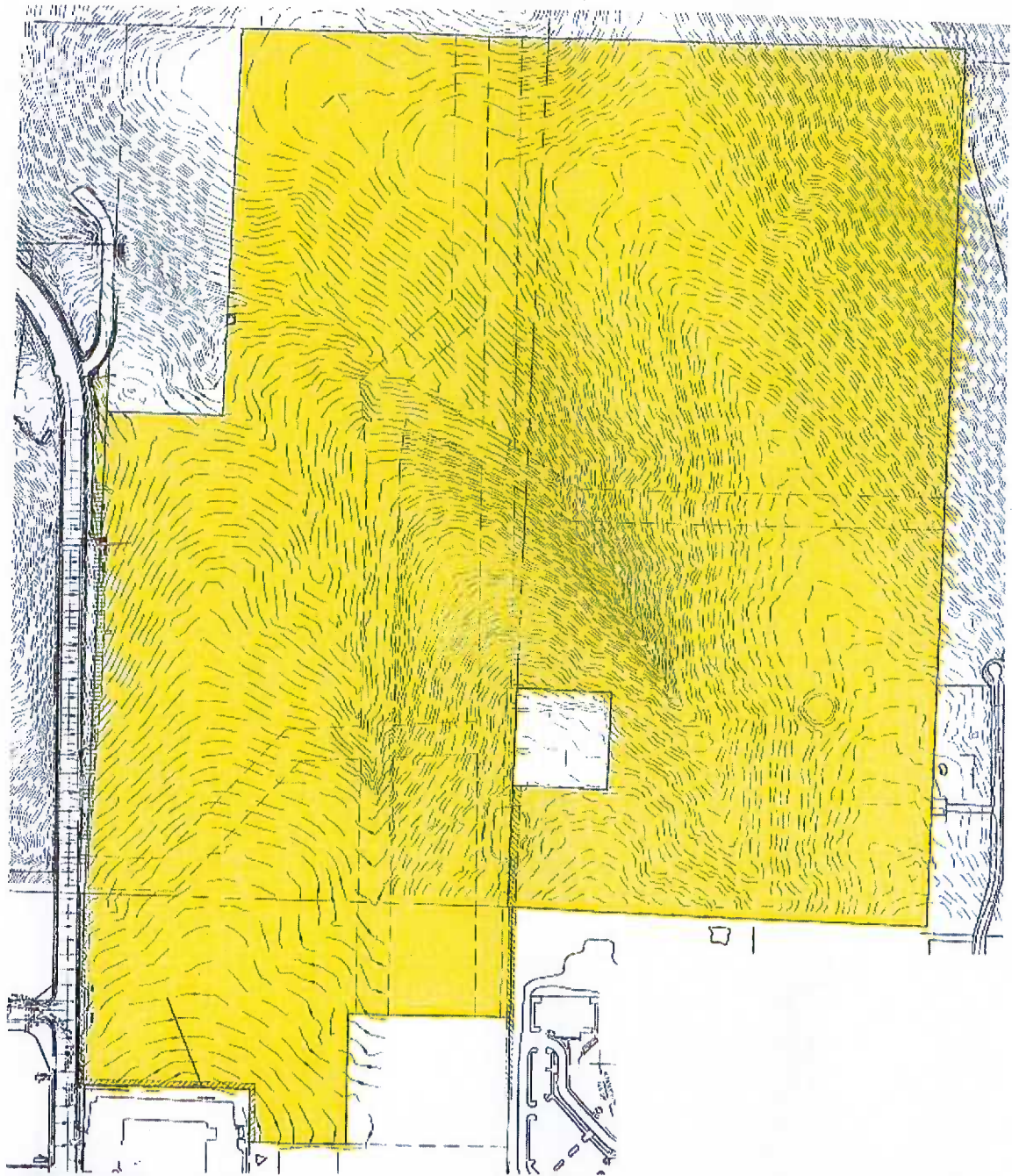


EXHIBIT
B1

TOPO MAP

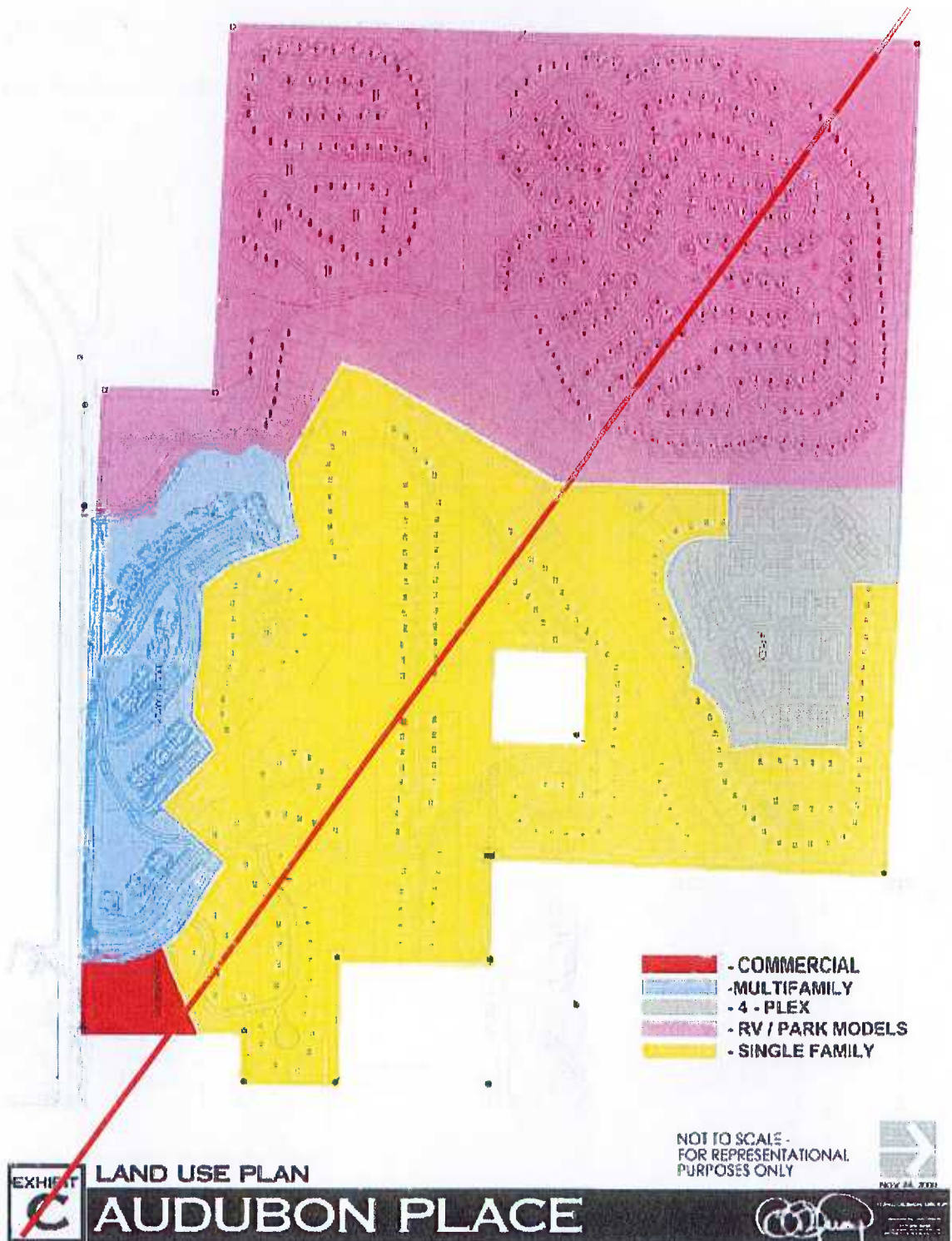
NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY

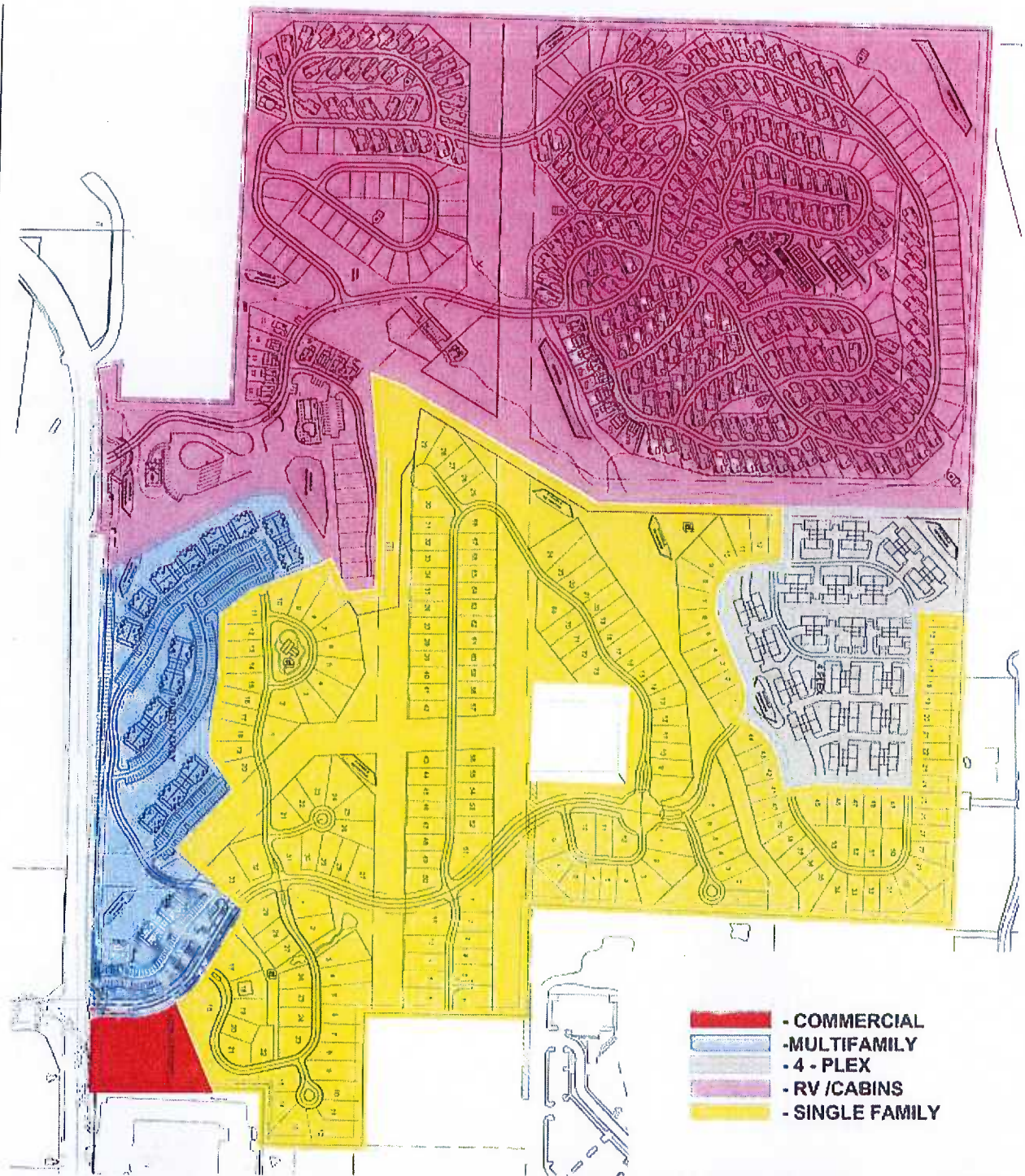


NOV 2, 2010



YUNG DESIGN GROUP
REVISIONS: SEE SHEET 6
ALL DIMENSIONS
IN FEET AND INCHES
UNLESS OTHERWISE NOTED





- COMMERCIAL
- MULTIFAMILY
- 4 - PLEX
- RV /CABINS
- SINGLE FAMILY

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



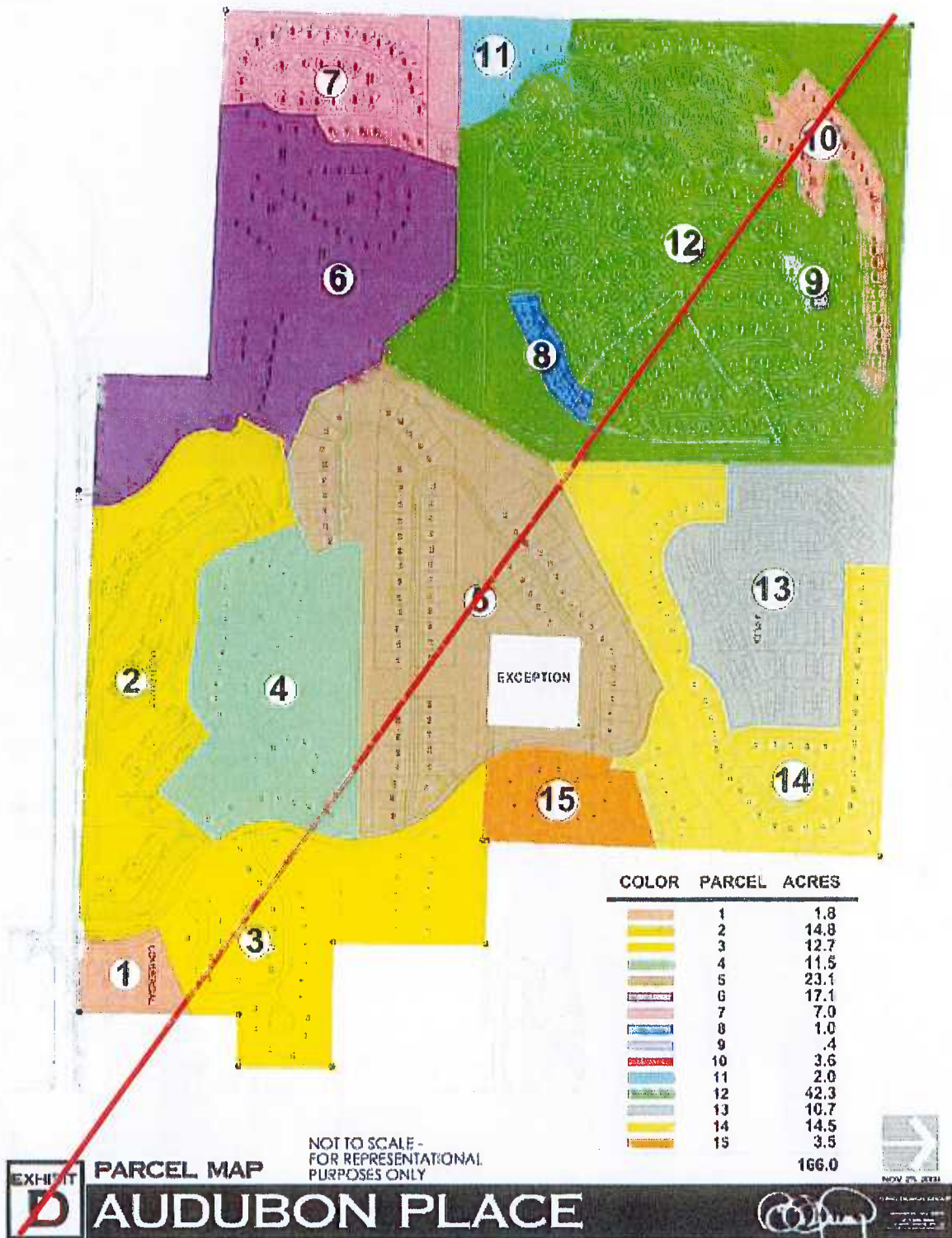
LAND USE PLAN

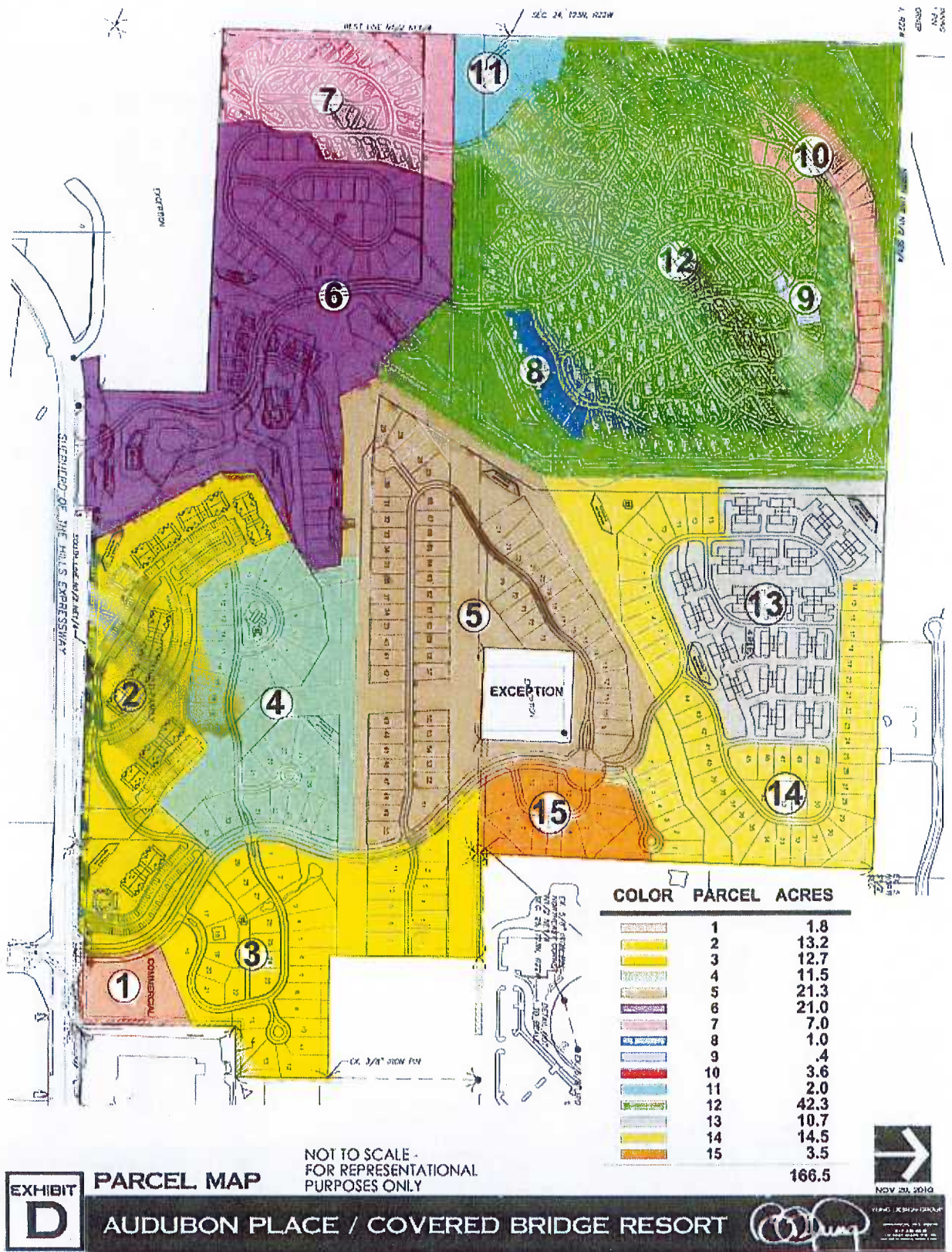
AUDUBON PLACE / COVERED BRIDGE RESORT

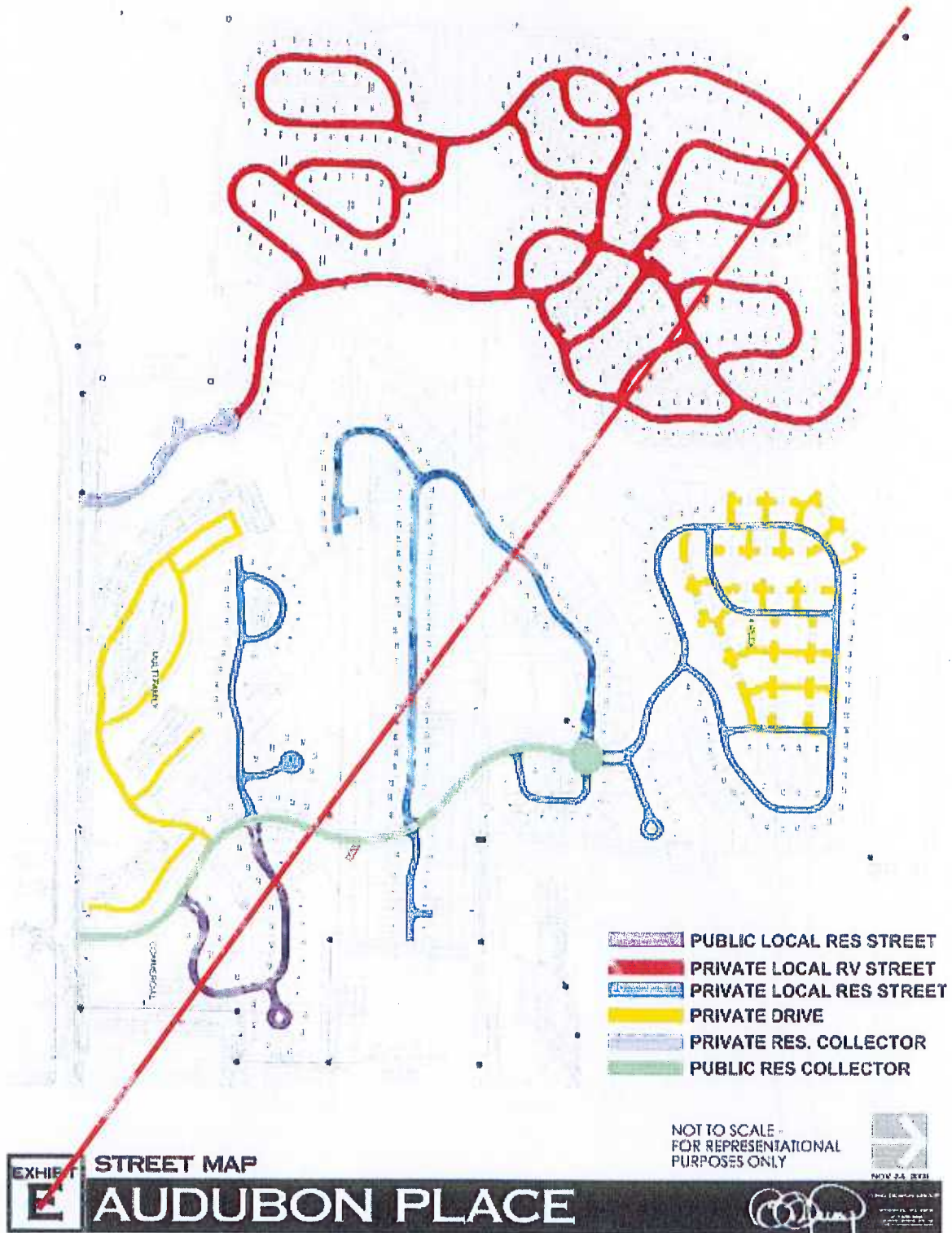


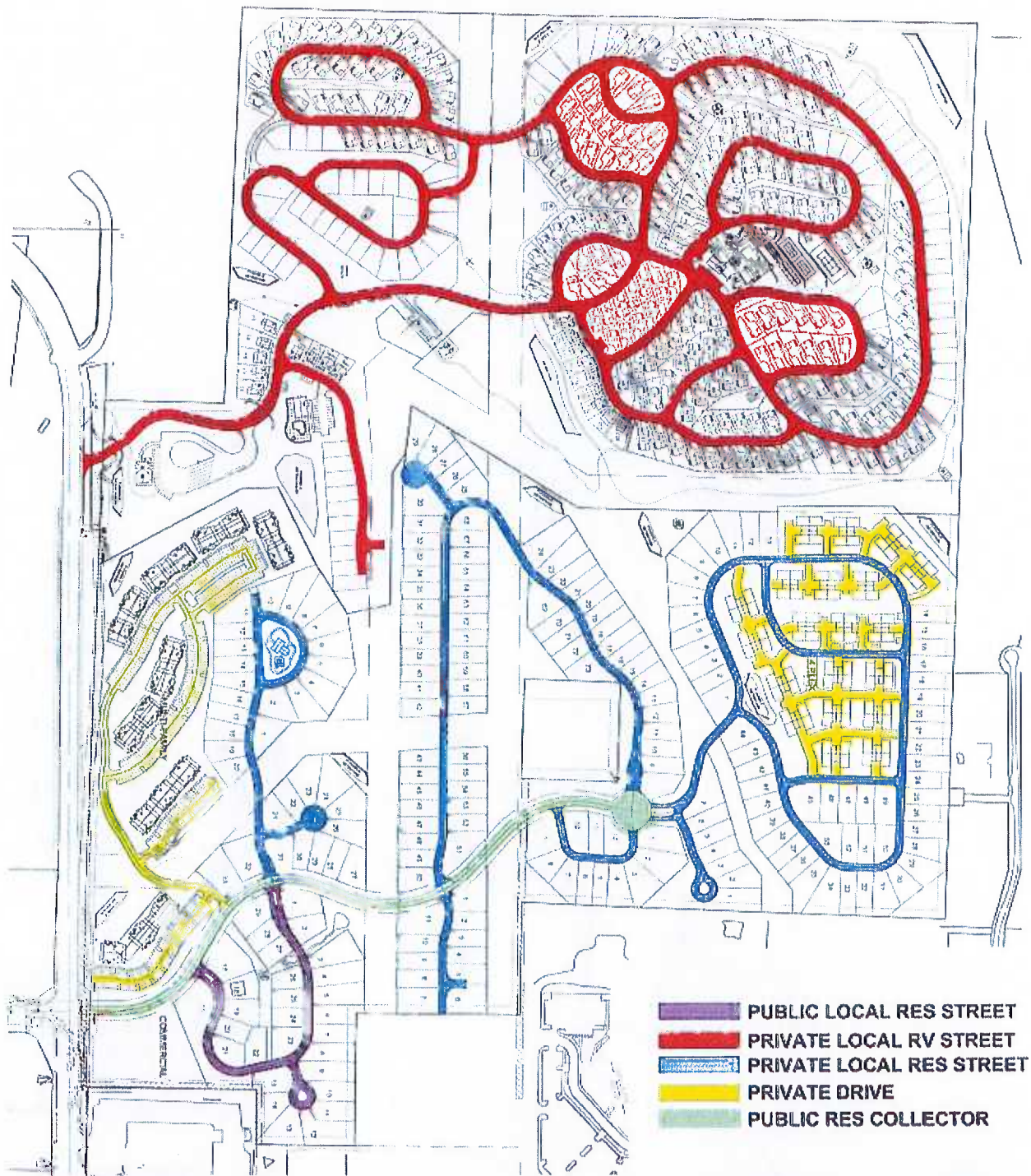
YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com









NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



**EXHIBIT
E**

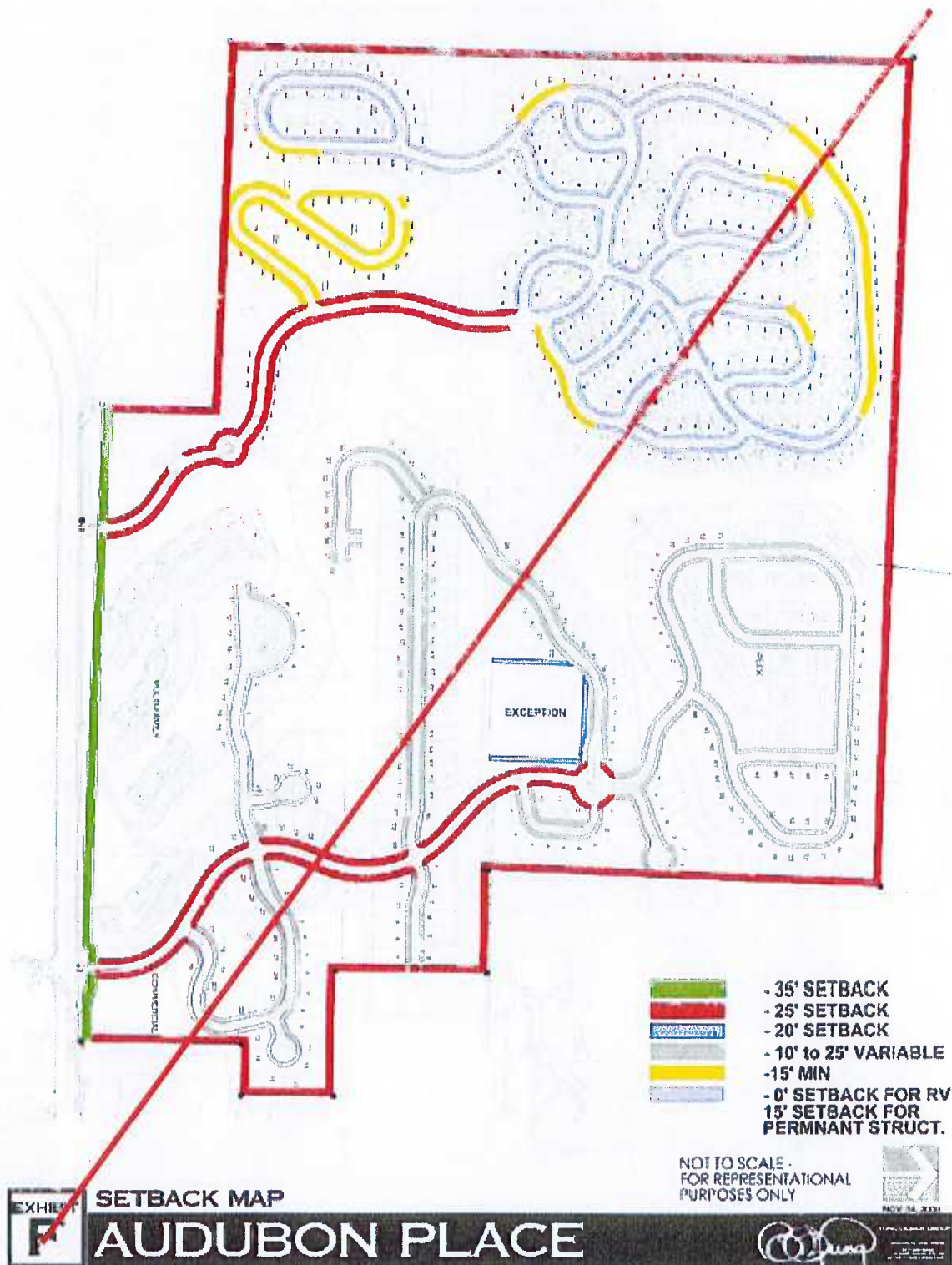
STREET MAP

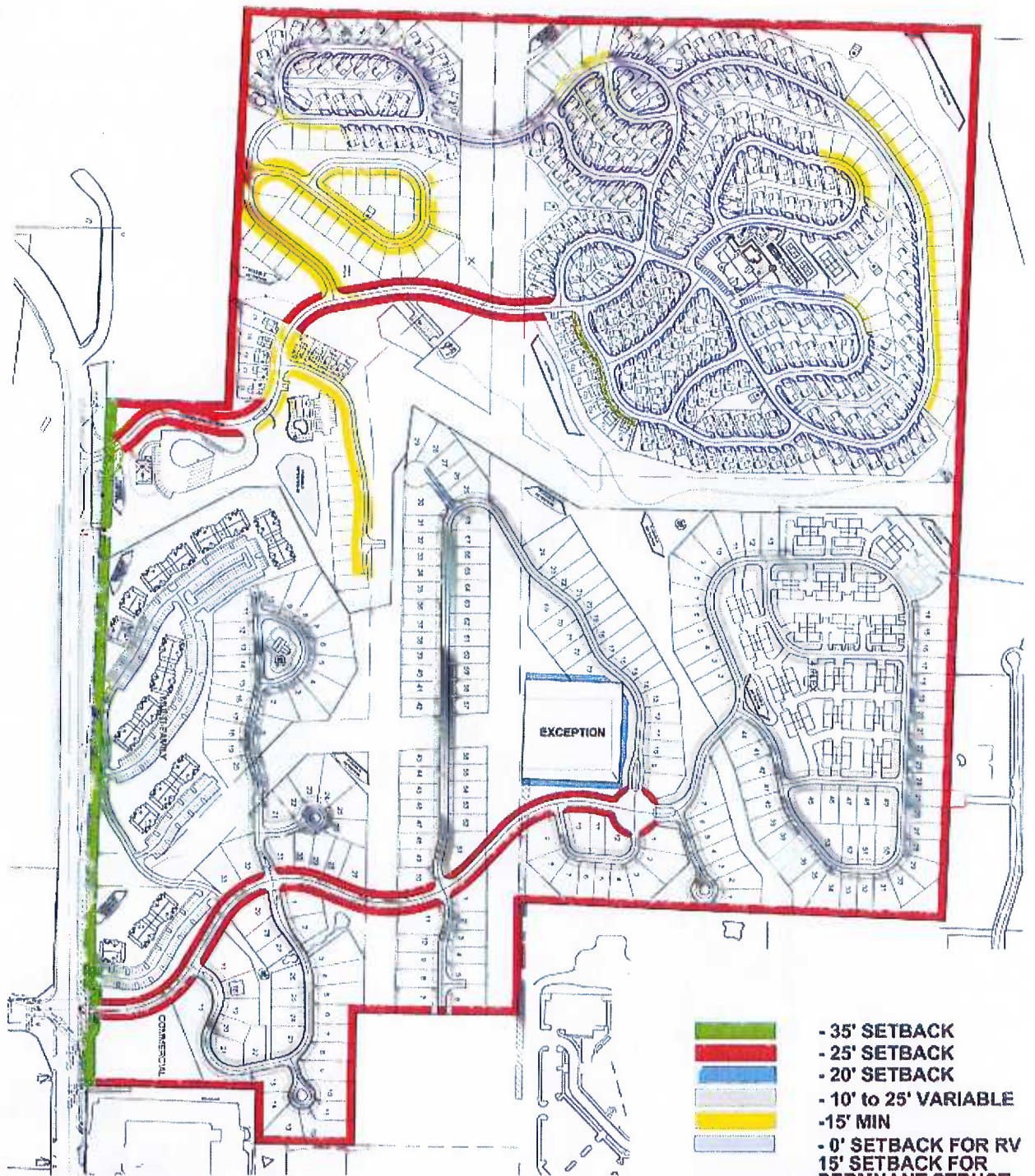
AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com





NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



EXHIBIT
F

SETBACK MAP

AUDUBON PLACE / COVERED BRIDGE RESORT

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com





EXHIBIT
G

BUILDING HEIGHT MAP

AUDUBON PLACE / COVERED BRIDGE RESORT

YUNG DESIGN GROUP, INC. • 110 West Adams, Ste 102 • Drafson, MO 65015

417-335-8235 — Fax 417-335-8286 bill@yungdesign.com

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



NOV 20 2010



YUNG DESIGN GROUP
110 West Adams, Ste 102
Drafson, MO 65015
417-335-8235
Fax 417-335-8286
bill@yungdesign.com



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com





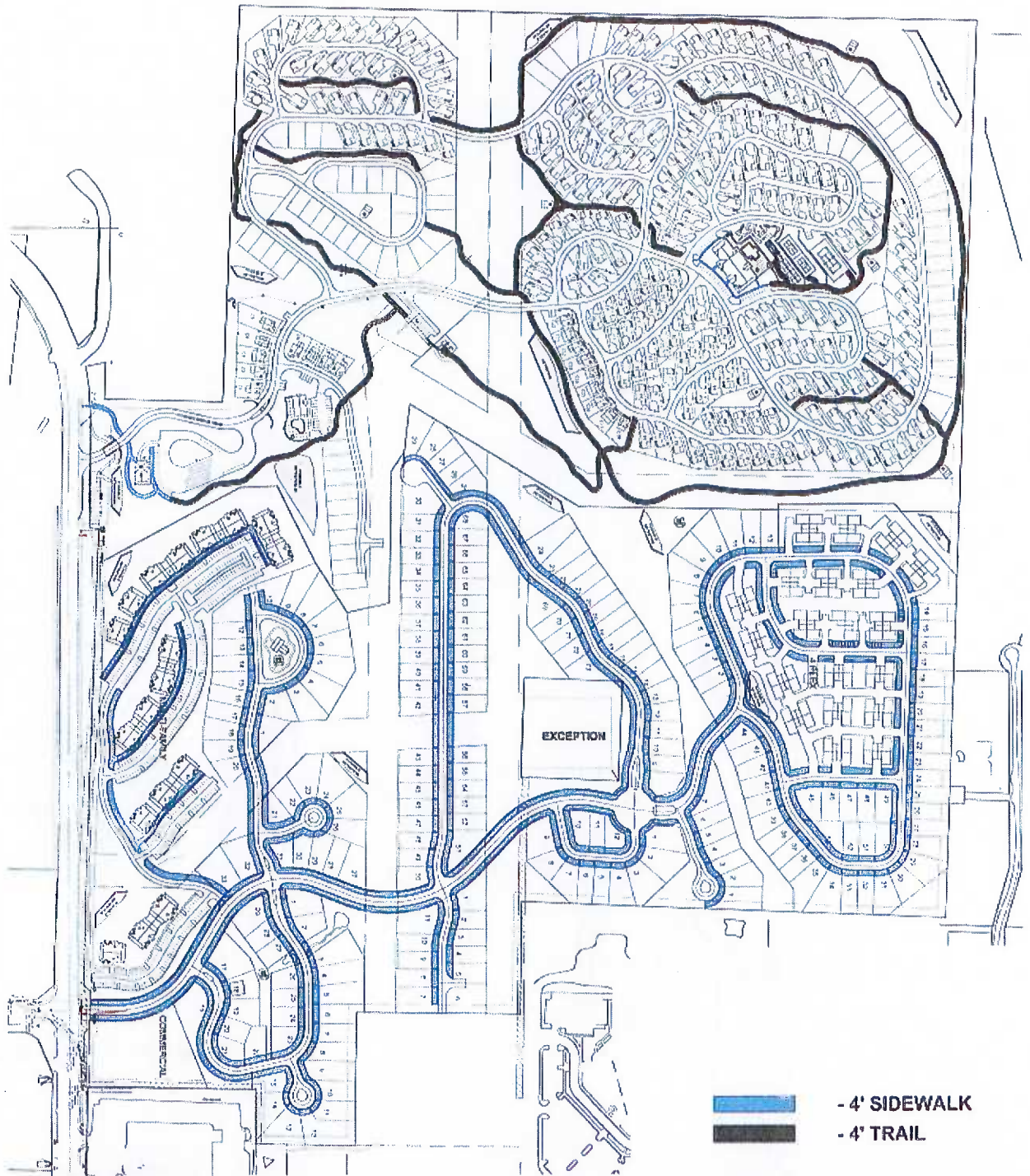


EXHIBIT
I

SIDEWALK PLAN

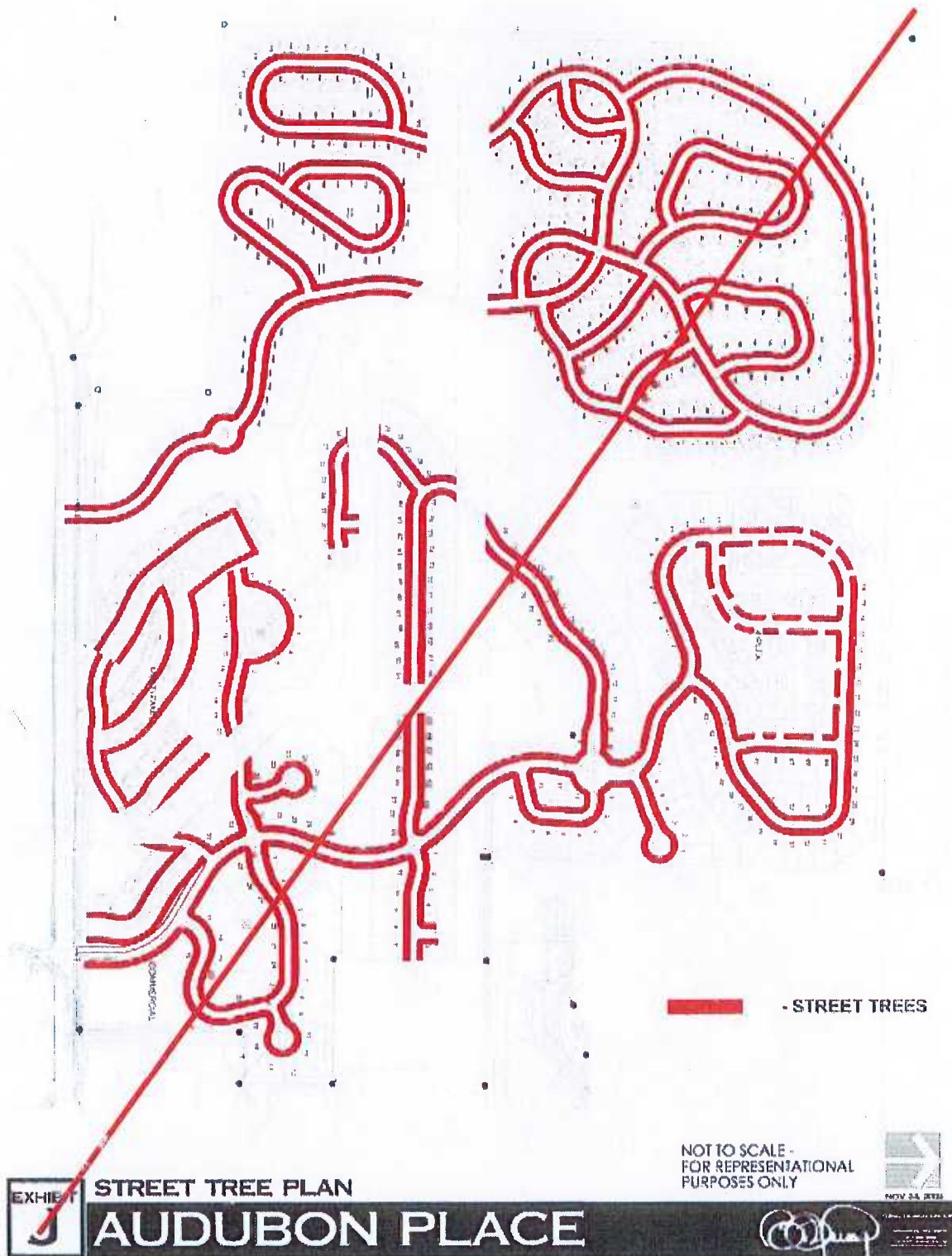
AUDUBON PLACE / COVERED BRIDGE RESORT

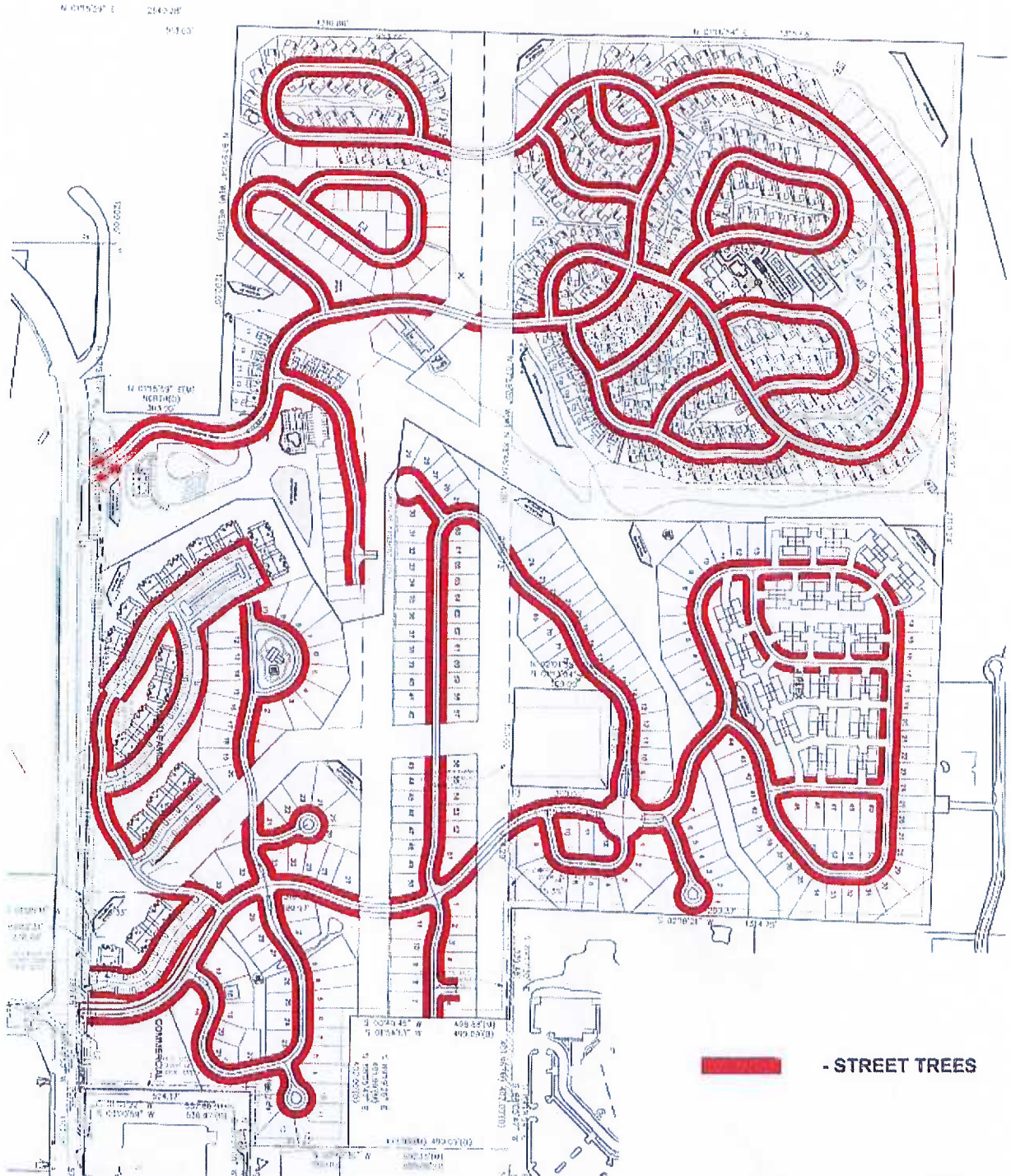
NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO - 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com





 - STREET TREES

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



EXHIBIT
J

STREET TREE PLAN

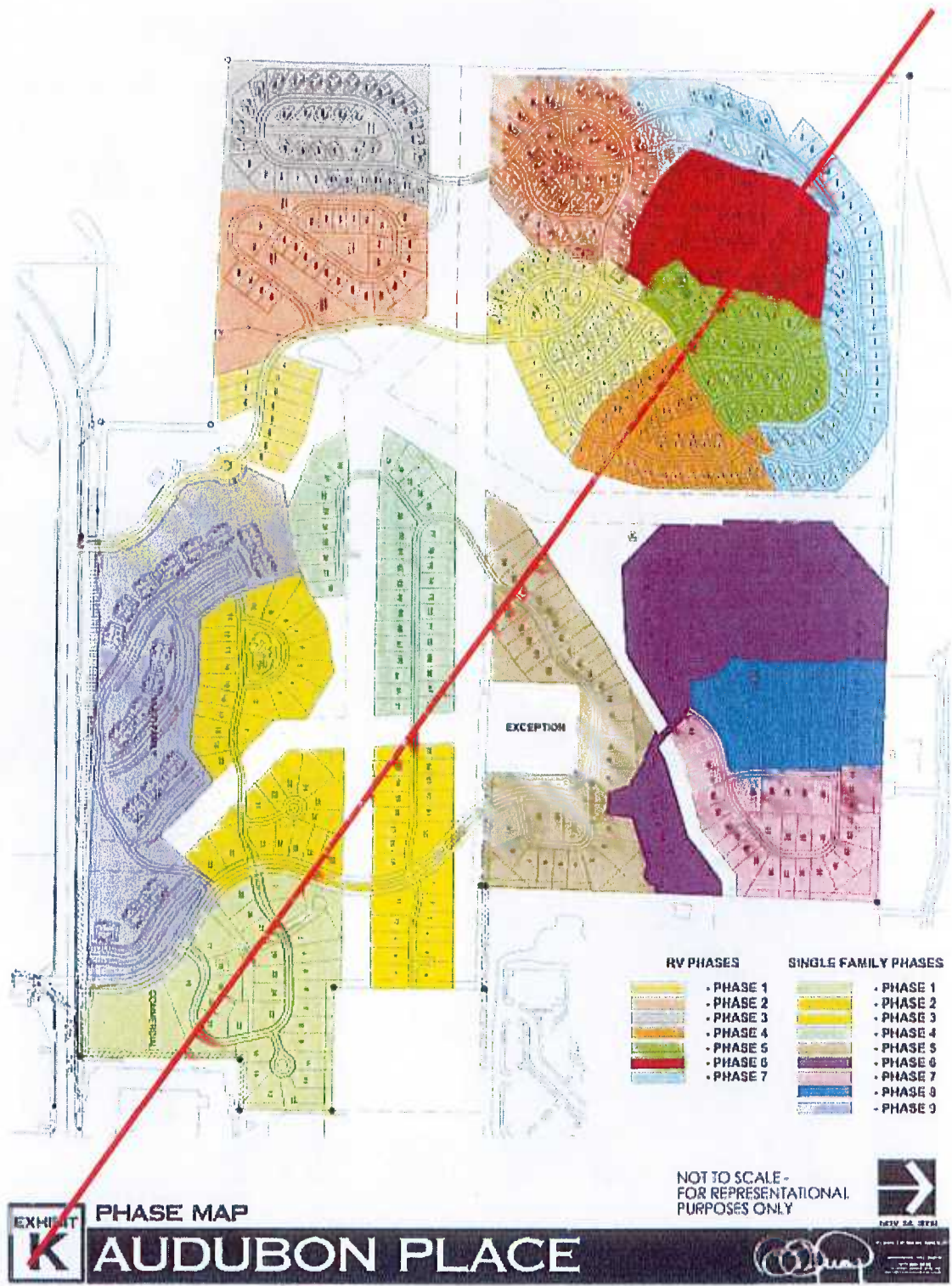
AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC.
110 WEST ADAMS, STE 102
BRANSON, MO 65616
417-335-8235

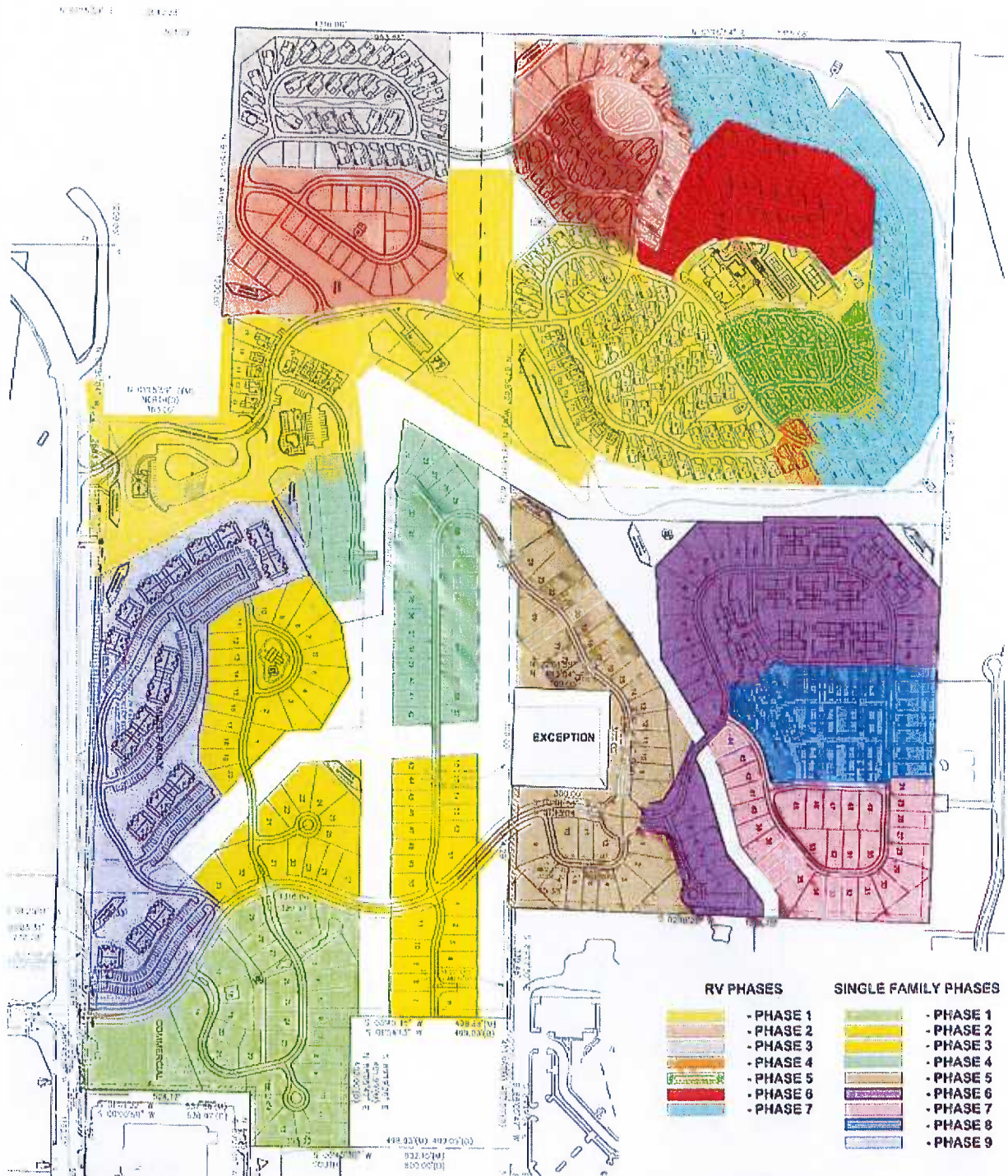
YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



EXHIBIT
K

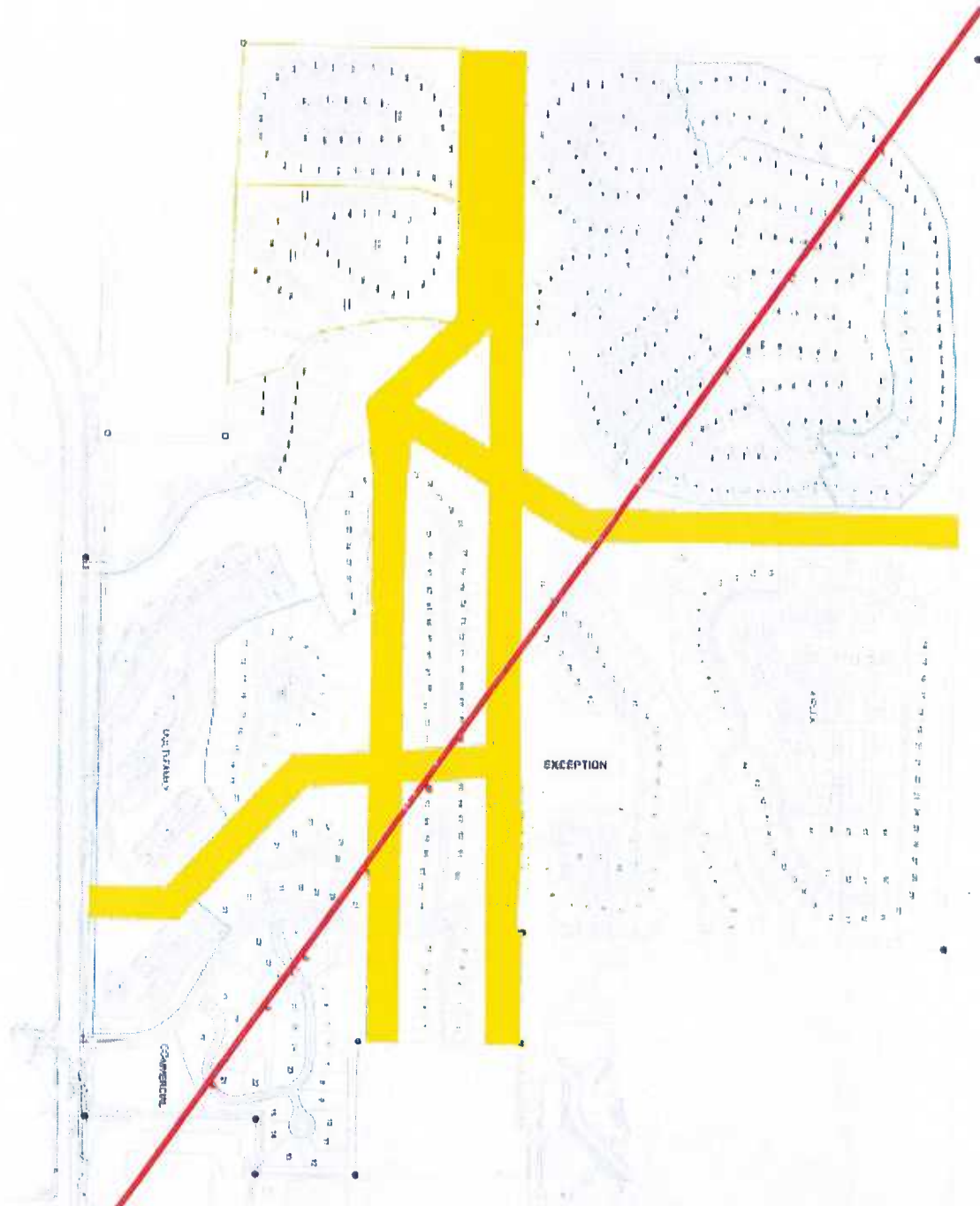
PHASE MAP

AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



EXISTING UTILITY EASEMENTS

AUDUBON PLACE

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



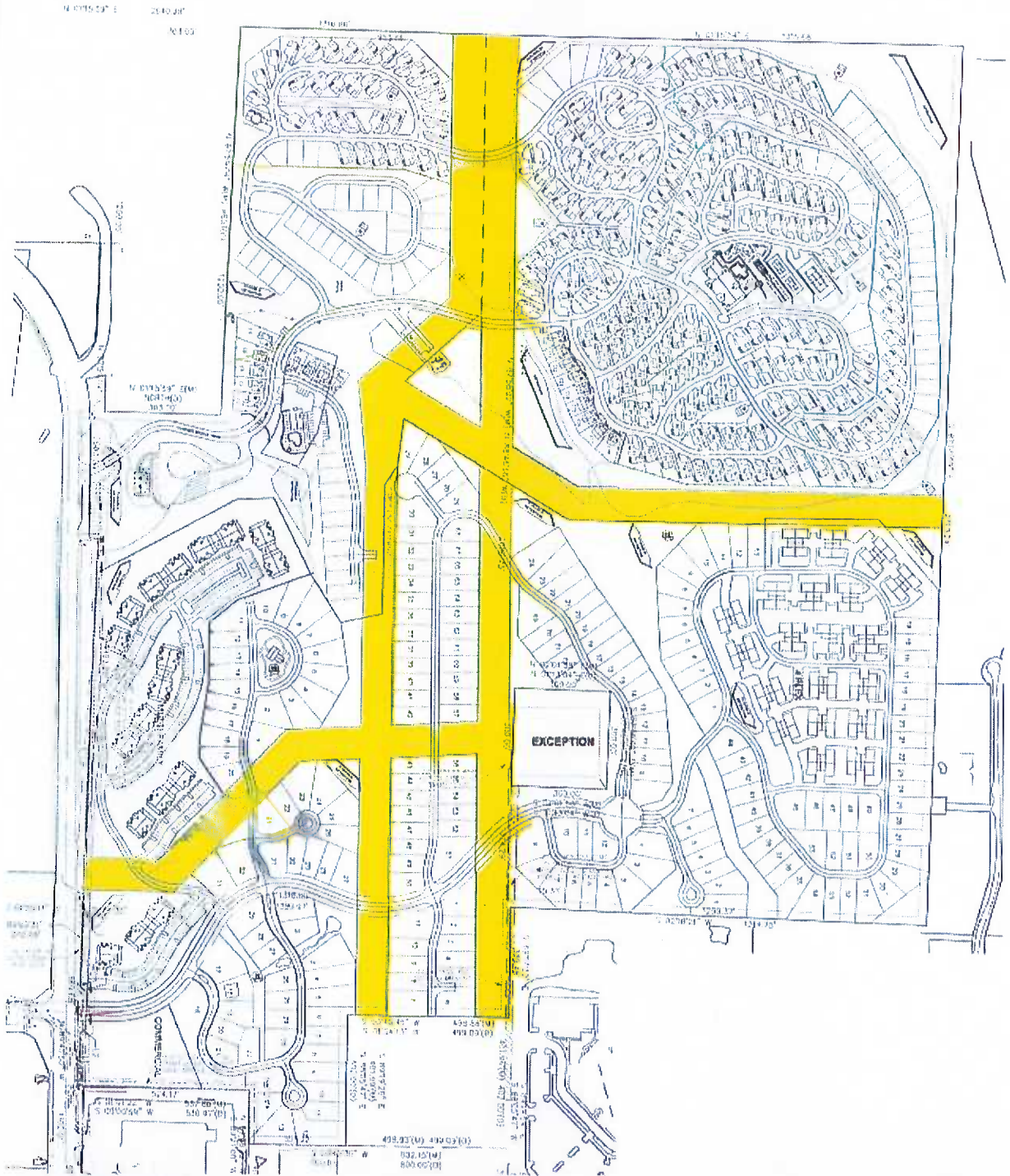


EXHIBIT
L

EXISTING UTILITY EASEMENTS

AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY

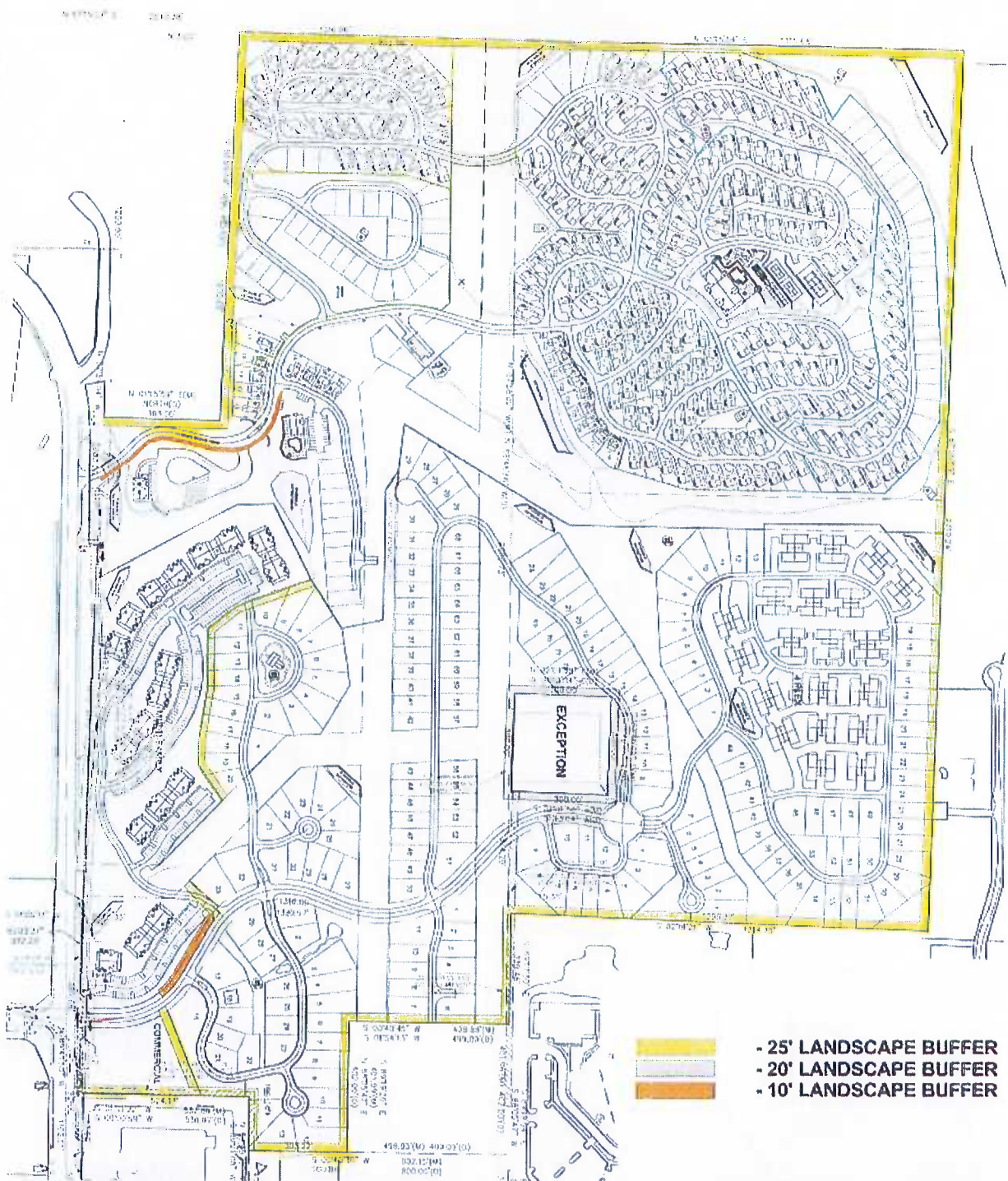


[Signature]

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com





NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



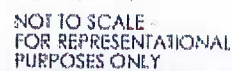
EXHIBIT
M

LANDSCAPE BUFFER PLAN

AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 - Fax 417-335-8286 bill@yungdesign.com



Received June 17, 2009 AUGUST 1 SEPT 2 2009



EXHIBIT ENTRY MONUMENT
N AUDUBON PLACE

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



EXHIBIT
0

COVERED BRIDGE RENDING

AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



NOV 14, 2010



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



CLUBHOUSE RENDERING

AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



YUNG DESIGN GROUP, INC.
1110 West Adams, Ste 102
Branson, MO 65616
417-335-8235

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



TYPICAL CABIN RENDERING

AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



11.2008 1:00 PM 08/23/09
YUNG DESIGN GROUP, INC.
110 WEST ADAMS, SUITE 102
BRANSON, MISSOURI 65616
417-335-8235 FAX 417-335-8286
BILL@YUNGDESIGN.COM

YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



SALES CENTER / GENERAL STORE

**NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY**

AUDUBON PLACE / COVERED BRIDGE RESORT



© 2008 YUNG DESIGN GROUP, INC.
ALL RIGHTS RESERVED

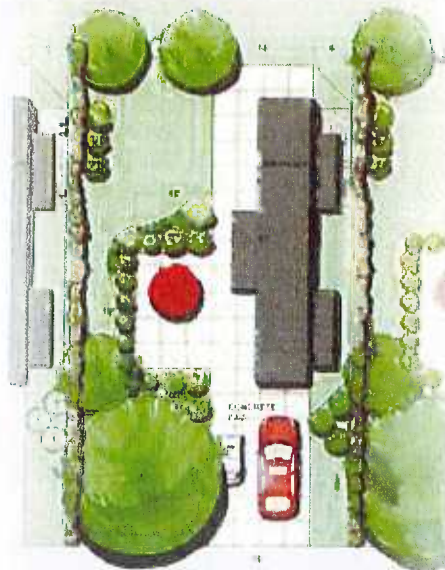


RV PAD RENDERING

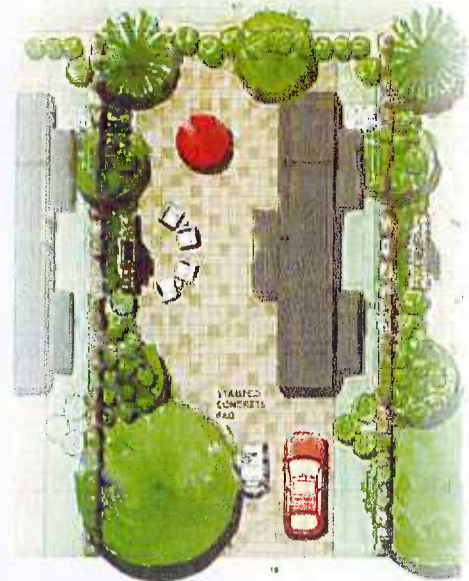
AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY

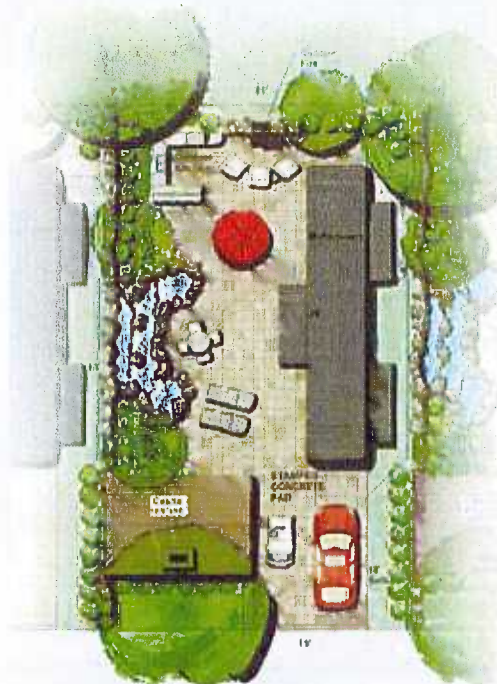




SILVER OPTION



GOLD OPTION



PLATINUM OPTION

PAD SITE DEVELOPMENT OPTIONS

**NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY**



AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616
417-335-8235 – Fax 417-335-8286 bill@yungdesign.com



Cabin Color Option A



Front



Side

Cabin Elevation 1



Front



Side

Cabin Elevation 3



COVERED BRIDGE CABIN ELEVATIONS

AUDUBON PLACE / COVERED BRIDGE RESORT

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 - Fax 417-335-8286 bill@yungdesign.com



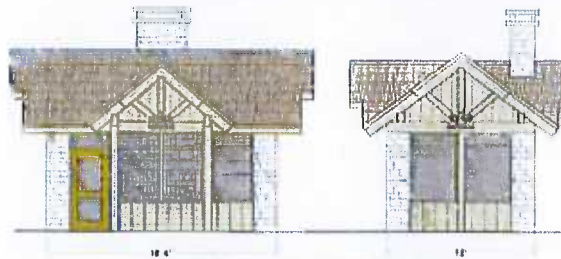
CLUBHOUSE ELEVATION



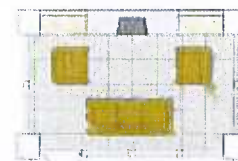
FRONT ELEVATION - SALES CENTER/GENERAL STORE



REAR AND SIDE ELEVATIONS - SALES CENTER/ GENERAL STORE



CASITA ELEVATIONS



CASITA FLOOR PLAN

NOT TO SCALE -
FOR REPRESENTATIONAL
PURPOSES ONLY



COVERED BRIDGE ELEVATIONS

AUDUBON PLACE / COVERED BRIDGE RESORT



YUNG DESIGN GROUP, INC. - 110 West Adams, Ste 102 - Branson, MO 65616

417-335-8235 – Fax 417-335-8286 bill@yungdesign.com

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING ENROLLMENT WITH MICROSOFT FOR ENTERPRISE LICENSING AND AUTHORIZING THE MAYOR TO EXECUTE THE ENROLLMENT AGREEMENT.

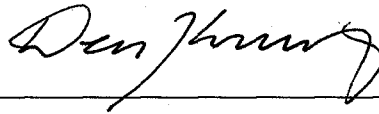
FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: IT DEPARTMENT *DS*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

The city has a perpetual agreement from 2007 for Microsoft Enterprise. The agreement requires an enrollment to sign up for this program and the current enrollment has expired. This bill extends the enrollment for an additional 36 months. The city is required to have the agreement and enrollment in order to purchase the software licenses.

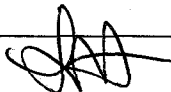
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 101-1014-510-20-70



ATTACHED INFORMATION: Microsoft Enterprise Agreement

Enterprise Enrollment (indirect)

State and Local

Enterprise Agreement number
Reseller or Microsoft affiliate to complete

01E60537

Previous enrollment number (if
renewing Software Assurance*)
Reseller to complete

Enrollment number
Microsoft affiliate to complete

Earliest expiring previous
enrollment end date
Reseller to complete

Reseller purchase order number
Reseller to complete

1218MSE26522LK

* If consolidating from multiple previous enrollments with Software Assurance, complete the multiple previous enrollment form. Enterprise products can only be renewed from a qualifying enrollment. Additional products can be renewed from any previous enrollment with Software Assurance

This Microsoft Enterprise Enrollment is entered into between the following entities signing, as of the effective date identified below.

Definitions. When used in this enrollment, "you" refers to the entity that signs this enrollment with us, and "we" or "us" refers to the Microsoft entity that signs this enrollment.

"qualifying enrollment," means (i) an enterprise enrollment under a Microsoft Enterprise Agreement; (ii) any enterprise subscription enrollment entered into under a separate Microsoft Enterprise Subscription Agreement; or (iii) any other enrollment submitted under the Microsoft Enterprise Agreement identified on the cover page.

All other definitions in the Microsoft Enterprise Agreement identified above apply here.

Effective date. If you are renewing Software Assurance from one or more previous "qualifying enrollments" then the effective date will be the day after the first Enrollment expires.

Otherwise the effective date will be the date this enrollment is signed by us. Where a previous qualifying enrollment is being used, your reseller will require that enrollment number and end date to complete the applicable boxes above.

Term. This enrollment will expire 36 full calendar months from the effective date. It could be terminated earlier or renewed as provided in the Microsoft Enterprise Agreement. We will advise you of your renewal options before it expires.

Representations and warranties. By signing this enrollment, the parties agree to be bound by the terms of this enrollment, and you represent and warrant that: (i) you have read and understand the Microsoft Business Agreement identified above (if any) and the Microsoft Enterprise Agreement, including all documents it incorporates by reference and any amendments to those documents, and agree to be bound by those terms; and (ii) you are either the entity that signed the Microsoft Enterprise Agreement or its affiliate.

Non-exclusivity. This enrollment is non-exclusive. Nothing contained in it requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.

Product order. Your reseller will provide you with your product pricing and order. Your prices and billing terms for all products ordered will be determined by agreement between you and your reseller. Your reseller will provide us with your order separately from this enrollment.

Do you require media? ☒ No. ☐ Yes. If yes, attach media form.

This enrollment consists of (1) this document, and (2) the required attachments (as indicated below).

Attachments:

Required if applicable	
<input checked="" type="checkbox"/>	Media Order Form
<input checked="" type="checkbox"/>	Enterprise Desktop Terms and Conditions
<input type="checkbox"/>	Supplemental Contact Information Form
<input type="checkbox"/>	Multiple Previous Enrollment Form

Customer	Contracting Microsoft Affiliate
Name of entity * <i>City of Brownsville</i>	Microsoft Licensing, GP
Signature * <i>Kesha Westfall</i>	Signature <i>[Signature]</i>
Printed name	Printed name Joylene Hill
Printed title *	Printed title Contract Administrator
Signature date * APR 2007	Signature date (date Microsoft affiliate countersigns) DEC 21 2007
*Indicates required fields <i>Kesha Westfall</i>	Effective date (may be different than our signature date)

Microsoft Volume Licensing web sites

(Note: We will advise you of any changes to these URLs.)

Product use rights	http://microsoft.com/licensing/contracts
Product List	http://microsoft.com/licensing/contracts
Microsoft Volume Licensing Services (MVLS) (password protected site to view orders under this enrollment)	https://licensing.microsoft.com/
Customer guide	http://microsoft.com/licensing/programs/

Notices to Microsoft should be sent to:

MSLI, GP
6100 Neil Road, Suite 210
Reno, Nevada, USA 89511-1137
Dept. 551, Volume Licensing

Customer. Please remit to your reseller.**Reseller.** Please remit to Microsoft.**APPROVED AS TO FORM:***[Signature]*
City Attorney

1. Contact information. Each party will notify the other in writing if any of the information in the following contact information section changes. The asterisks (*) indicate required fields. By providing contact information, you consent to its use for purposes of administering this enrollment by us, our affiliates, and other parties that help us administer this enrollment. The personal information you provide in connection with this enrollment will be used and protected in accordance with the privacy statement available at <http://licensing.microsoft.com>.

Primary contact information: The customer signing on the cover page must identify an individual from inside its organization to serve as the primary contact. This contact is the default administrator for this enrollment and receives all notices unless you provide us written notice of a change. The administrator may appoint others as administrators and grant others access to online information.

Customer		
Name of entity * Same as entity name on the cover page		Contact name * Last CLINE First D.J.
Street address * 110 W. Maddux Ste 311		Contact email address (required for online access) * dcline@cityofbraunson.org
City * Braunson	State/Province * MO	Phone 417-337-8592
Country * USA	Postal code * 65616	Fax 417-335-2746

Notices and online access contact information: This will designate a notices and online access contact different than the primary contact. This contact will replace the default administrator for this enrollment and receive all notices. This contact may appoint other administrators and grant others access to online information.

Notices and online access contact		
<input checked="" type="checkbox"/> Same as primary contact		
Name of entity*		Contact name * Last First
Street address*		Contact email address (required for online access)*
City*	State/Province*	Phone*
Country*	Postal code*	Fax
<input type="checkbox"/> This contact is a third party (not the customer)		Warning: This contact receives personally identifiable information of the customer.

Language preference: This section designates the language in which you prefer to receive notices.

English

Microsoft account manager: This section designates your Microsoft account manager contact.

Microsoft account manager name

Microsoft account manager email address

@microsoft.com

If you require a separate contact for any of the following, please check the box and attach the Supplemental Contact Information form. Otherwise, the notices contact remains the default.

☐

- Duplicate Electronic Contractual Notices contact
- Software Assurance Benefits contact
- MSDN contact
- Online Services contact

2. Defining your enterprise.

Use this section to identify which affiliates will be included in your enterprise. Your enterprise must consist of entire government agencies, departments or legal jurisdictions, not partial government agencies, departments, or legal jurisdictions. Each affiliate must be entirely "in" or entirely "out." All affiliates acquired after the effective date of this enrollment that are not party to a qualifying enrollment of their own will automatically be included unless you fill in part b below.

a. Use this part (a) to determine which current affiliates will be included in your enterprise. Check only one of the boxes in part (a).

<input checked="checked" type="checkbox"/>	You and all affiliates will be participating
<input type="checkbox"/>	You and the following affiliates will be participating (if no affiliates will be participating, write "none" on line 1) (attach a list of names on a separate piece of paper if more than 5 affiliates are being included):
1	
2	
3	
4	
5	
<input type="checkbox"/>	You and all affiliates, except the following affiliates, will be participating (attach a list of names on a separate piece of paper if more than 5 affiliates are being excluded):
1	

2	
3	
4	
5	

b. Use this part (b) to indicate whether affiliates acquired after the enrollment effective date will be included. Unless you check the box below, all affiliates acquired after the enrollment effective date that are not party to a qualifying enrollment of their own will automatically be included.

☐ Exclude all affiliates acquired after the enrollment effective date that are not party to a qualifying enrollment of their own.

3. Selecting your language option.

Select the option for the languages in which you will run the products licensed under this enrollment. The options are identified below and their corresponding languages are identified at <http://microsoft.com/licensing/contracts>.

Check one box

- ☒ Listed Languages
- ☐ All Languages

4. Language allocation.

Provide us with your good faith estimate of the specific languages in which you will run all copies of all products and the approximate percentage of those copies you will run in each language. Information that you provide here does not limit your future use of products under this enrollment in any permitted language within the language group you select above. Attach a separate sheet if more space is needed.

Language	Percentages
English	100 %
	%
	%
	%

5. Applicable currency.

Payments made in connection with this enrollment must be in U.S. Dollars

6. Establishing your price level.

The price level indicated in this section will be your price level for the initial enrollment term for all enterprise products you order and for any additional products in the same pool(s). Your price level for any other additional products will be level "A".

Qualified desktops: You represent that the total number of qualified desktops in your enterprise is, or will be increased to, this number during the initial term of this enrollment (This number must be equal to at least 250 desktops).	200
Qualified users: You represent that the total number of qualified users in your enterprise is, or will be increased to, this number during the initial term of this enrollment (This number must be equal to at least 250 users).	

Number of desktops/ users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which you order an enterprise product):	Qualified desktop	Qualified user
	D	

Price level (for pools in which you do not order an enterprise product):	Price level "A"
---	------------------------

7. Enterprise product orders.

You must select a desktop platform or any individual enterprise product before you can order additional products. You may choose to split your Office product selection between "professional plus" and "enterprise" editions within your enterprise. Your CAL selection must be the same across your enterprise. The components of the current versions of any enterprise product are identified in the Product List.

Is your Enterprise Agreement version 6.4 or earlier? ☒ No. ☐ Yes. If yes, you will also need to attach the Enterprise Desktop Terms and Conditions.

Unless stated/indicated otherwise, we will invoice your reseller in 3 equal annual installments. The first installment will be invoiced upon our acceptance of this enrollment and thereafter on the anniversary of the enrollment. All subsequent new additional products and true-ups are billed in full.

Platform Product Selection (Select one)

	Professional Desktop	Enterprise Desktop	Custom Desktop
<input checked="" type="checkbox"/>	Windows Desktop Operating System Upgrade Office Professional Plus Core CAL Desktop	<input type="checkbox"/> Windows Desktop Operating System Upgrade Office Enterprise Enterprise CAL <Select>	<input type="checkbox"/> Windows Desktop Operating System Upgrade <Select One or Both> <Select One> <Select>

Individual Enterprise Product Component Selection

<input type="checkbox"/>	Windows Desktop Operating System Upgrade	
<input type="checkbox"/>	<Select One or Both>	
<input type="checkbox"/>	<Select>	<Select>

8. Qualifying systems licenses.

All desktop operating system licenses provided under this program are upgrade Licenses. **No full operating system licenses are available under this program.** Therefore, if you select the Desktop Platform or the Windows Desktop Operating System Upgrade & Software Assurance, all qualified desktops on which you will run the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://microsoft.com/licensing>. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of your order. That list is more extensive at the time of your initial order than it is for some subsequent true ups and system refreshes during the term of your enrollment. *For example, Windows XP Home Edition or successor products are not qualifying Operating Systems.*

Your reseller should complete the following sections and sign this form where indicated.

General information

Reseller company name:*	Software Spectrum
Street address: (PO boxes will not be accepted)*	22721 E Mission
City and State / Province and postal code:*	Liberty Lake, WA 99019
Country:*	USA
Contact name:*	Loren Kilup
Phone number:*	509-742-2327
Fax number:	480-760-6125
Email address:*	Spectrummicrosoftdesk-NA@ softwarespectrum.com

The undersigned confirms that the reseller information is correct.

Name of reseller*	Software Spectrum
Signature*	Katherine Hui
Printed name*	Katherine Hui
Printed title*	Senior Manager
Date*	December 18, 2007

Enterprise Subscription Enrollment – State and Local Enterprise Desktop Terms and Conditions

The following terms are required to update and amend the existing agreement to allow for the purchase of the CAL and/or step-up enterprise products which may or not have been available on the effective date of the existing Enterprise Agreement.

The terms and conditions below supplement the terms and conditions of the Enterprise Subscription Agreement version 6.4 or earlier as they apply to this enrollment. In the case of any conflict between these terms and conditions and the terms and conditions of that agreement, these terms control.

1. Definitions.

"Qualified user" means a person who accesses any Client Access License "CAL" server software licensed within an enrolled affiliate's enterprise. It does not include a person who accesses the software under an External Connector License. It also does not include a person who accesses the software in some other way that does not require a CAL.

- 2. Establishing price levels.** Each product is assigned to one of the following pools: applications, servers or systems. An enrolled affiliate's prices are based on the "price level" for which it qualifies in each individual product pool. Price levels are established separately for each enrollment as described in this subsection.

Product pools from which an enterprise product has been ordered.

Generally, for each product pool from which an enrolled affiliate orders an enterprise product, the price level for the first year of its enrollment for any enterprise products or additional products from that pool will be the price level for which the enrolled affiliate qualifies based on its initial number of qualified desktops. Price levels will be reset each year of the enrollment term (including any renewal) based upon the total number of the enrolled affiliate's qualified desktops as of the date of each annual order.

When the user CAL is ordered, price levels for any enterprise products or additional products ordered from the server pool are established as follows:

- If the user CAL is ordered as part of the Enterprise Desktop Professional Platform, then that price level is set as provided in the general rule.
- If the user CAL is ordered in any other way, then the price level for the first year of its enrollment will be set based on the enrolled affiliate's initial number of qualified users. Price levels will be reset each year of the enrollment term (including any renewal) based on the total number of the enrolled affiliate's qualified users as of the date of each annual order.

Product pools from which no enterprise product has been ordered. For any product pool from which the enrolled affiliate does not order an enterprise product, the price level for additional products within that pool will be price level "A" throughout the term of the enrollment (including any renewals).

- 3. Placing the initial order.** Your initial order must include L&SA for the user CAL for each qualified user.

- 4. Stepping up to a higher enterprise product edition.** If an already ordered enterprise product has multiple editions, an enrolled affiliate may migrate to the higher edition by ordering the applicable step-up. If step up details are included in an initial enrollment order, then the enrolled affiliate may step-up in accordance with the section entitled "True-ups and Update statements." If the step-up details are not included in the initial enrollment order, the enrolled affiliate may step-up by placing an

order in the month the step-up is first run in accordance with the process set out in the section entitled "Adding new additional products not previously ordered."

5. Placing annual orders At each anniversary of its enrollment effective date (including anniversaries during any renewal), each enrolled affiliate must calculate the then-current number of qualified desktops and qualified users covered by the enrolled affiliate's enrollment. Each enrolled affiliate must then submit an order for L&SA within 15 days following the anniversary of its enrollment effective date for the following;

- A number of qualified desktops equal to the greater of (i) the current number of qualified desktops covered by its enrollment, or (ii) 250.
- When ordering user CALs, a number of qualified users equal to the greater of (i) the current number of qualified users covered by its enrollment, or (ii) 250.

At each anniversary, an enrolled affiliate that ordered device CALs in the prior year can instead elect to order user CALs, or vice versa. See the Product List for more information.

6. User CAL License grant - what you are licensed to run. These terms supersede the corresponding license grant in the Enterprise Subscription Agreement, solely with respect to the user CAL. Upon our acceptance of this enrollment, you have the following right during the term of this enrollment:

As long as you place annual orders for CALs as described in these terms and conditions, for any year in which you choose to license user CALs, you may allow each qualified user to access server software as specified by the user CAL. By including affiliates in your enterprise, you sublicense user CALs to each of them subject to the terms of this enrollment and the Enterprise Subscription Agreement. This user-based CAL access right does not apply during any year for which you choose to license device-based CALs.

7. Options upon completion of an initial enrollment or renewal term. We will provide each enrolled affiliate with 60 days prior written notice of expiration of its initial enrollment or renewal term. Our notice will advise the enrolled affiliate of its option to: (i) renew its enrollment, (ii) exercise its buy-out option, or (iii) allow its enrollment to expire:

- **Enrollment renewal option.** An enrolled affiliate may have the option to renew its enrollment for one term of 12 or 36 full calendar months. We and our affiliates will not unreasonably reject any renewal order. However, we may make a change to this program that will make it necessary for you and your enrolled affiliates to first enter into new agreements and enrollments.

To renew, the enrolled affiliate must submit a renewal order within 30 days after the previous term expired. The order will be for L&SA:

- for enterprise products other than the user CAL, a number of qualified desktops equal to the greater of (a) the number of qualified desktops covered by its enrollment as of the date of the renewal order, or (b) 250;
- when ordering user CAL, for a number of qualified users equal to the greater of (a) the number of qualified users covered by its enrollment as of the date of the renewal order, or (b) 250; and
- for all copies of any additional products that the enrolled affiliate wishes to renew.

At renewal, an enrolled affiliate that ordered Core Device CALs in the prior year can instead order user CALs, or vice versa. See the Product List for more information.

The renewal term will start the day following expiration of the prior term. A renewing enrolled affiliate may not add new enterprise products not previously ordered. An enrolled affiliate must submit a new enrollment to license new enterprise products.

- **Buy-out option.** An enrolled affiliate may elect to obtain perpetual licenses for products licensed under its enrollment. The enrolled affiliate must submit a buy-out order at least 30 days prior to the end of the enrollment term for:
 - (i) L&SA for (a) qualified desktops and qualified users covered by their enrollment that are added during the final year of the applicable initial enrollment or renewal term through the date of its buy-out order, and (b) any copies of any new additional products or copies of additional products previously ordered that the enrolled affiliate is running and for which it has not yet placed an order;
 - (ii) perpetual licenses at the buy-out price for that number of copies of each enterprise product, except for Core User CAL, equal to the total number of the enrolled affiliate's qualified desktops as of the date of its buy-out order;
 - (iii) perpetual licenses at the buy-out price for each Core User CAL, if ordered on the previous annual order, equal to the total number of the enrolled affiliate's qualified users as of the date of its buy-out order; and
 - (iv) perpetual licenses at the buy-out price for the number of copies of additional products the enrolled affiliate elects to obtain.

For buy-out orders, the perpetual license price for each product will equal 1.75 times the current annual price as of the buy-out order date. The price level for the buy-out order will be the price level the enrolled affiliate qualified for as of the anniversary of the enrollment effective date immediately preceding the applicable expiration date. The annual price used as the basis for determining the buy-out order price could be different than the fixed annual price for the same product. The enrolled affiliate's order confirmation for the buy-out and any documentation evidencing transfers of licenses, together with proof of payment, will be its evidence of a perpetual license to run the latest version then available (or any prior version) for the copies of those products covered by the buy-out order.

- **Allow the enrollment to expire.** If the enrolled affiliate does not submit a renewal order, the enrollment will expire. Because all licenses acquired under this agreement are temporary, an enrolled affiliate will not be eligible to obtain Software Assurance for those licenses under any other program without first acquiring a perpetual license or L&SA.

Enterprise White Amendment Cover Page

Agreement number

01E60537

Amendment ID

X05

Enrollment number

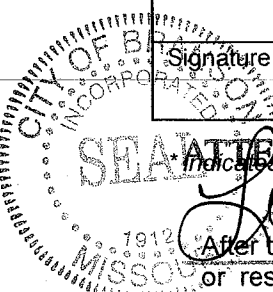
Note: If this is a new agreement the agreement numbers will be completed by the Microsoft affiliate. Otherwise, you are required to complete all agreement numbers.

This amendment cover page sets out the amendments to the agreement and/or enrollment identified above. The attached terms will only have effect for the purposes of the agreement and/or enrollment identified above. This amendment cover page and all attached amendments identified are entered into between the customer and Microsoft affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft agreement and/or enrollment identified above.

Amendment ID	Amendment Description	Contract
W16	Sub 250 desktop	
	End of List of Amendments	

Except for changes made by the amendments identified in this cover page, all terms of this agreement and/or enrollment remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment cover page and the attached amendments.

Customer	Contracting Microsoft Affiliate
Name of Entity *	Microsoft Licensing, GP
Signature *	Signature
Printed Name *	Printed Name
Printed Title *	Printed Title
Signature Date *	Signature Date
	(date Microsoft affiliate countersigns)
	Effective Date
	(may be different than our signature date)



ATTEST:
Indicate required field

After this cover page is signed, send it, along with all amendments listed, to your software advisor or reseller. Your advisor or reseller must submit them to the following address. When the amendment cover page and attached amendments are fully executed, you will receive a confirming copy.

Microsoft Licensing, GP
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada USA 89511-1137

Prepared By:

APPROVED AS TO FORM:

City Attorney

Enterprise Enrollment – State and Local

Amendment ID W16

The section entitled “**Establishing your price level**,” is hereby amended and restated in its entirety with the following:

- On the cover page, the paragraph entitled “Representations and warranties,” is hereby amended and restated in its entirety with the following:

Representations and Warranties. By signing this enrollment, the parties agree to be bound by the terms of this enrollment, and you represent and warrant that: (i) you have read and understand the Microsoft Enterprise Agreement, including all documents it incorporates by reference and any amendments to those documents, and agree to be bound by those terms; (ii) you are either the entity that signed the Microsoft Enterprise Agreement or its affiliate; and (iii) *you have 250 or more qualified desktops; or (iii) as a condition of entering into this enrollment with 25-249 qualified desktops, you have elected not to receive CD ROMs as part of the enrollment and therefore no CD ROMs will automatically be shipped. If you are enrolling with 25-249 qualified desktops and you would like to receive CD ROM Kits and updates you may order these through your reseller for a fee.*

- The following amendments are also made to the cover page:

The media order form is deleted from the list of documents that comprise the enrollment and is deleted from the list of required attachments.

- The section entitled “Establishing your price level,” is hereby amended and restated in its entirety with the following:

Establishing your price level.

The price level indicated in this section will be your price level for the initial enrollment term for all enterprise products you order and for any additional products in the same pool(s). Your price level for any other additional products will be level “A”.

Qualified desktops: You represent that the total number of qualified desktops in your enterprise is, or will be increased to, this number during the initial term of this enrollment (This number <i>may be less than 250 desktops, but must be at least 25 desktops</i>).	200
Qualified users: You represent that the total number of qualified users in your enterprise is, or will be increased to, this number during the initial term of this enrollment (This number <i>may be less than 250 users, but must be at least 25 users</i>).	

Number of desktops/ users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which you order an enterprise product):	Qualified desktop	Qualified user
	D	

Price level (for pools in which you do not order an enterprise product):	Price level “D”
---	------------------------

Only valid if attached to an amendment cover page.

Enterprise Signature Form

State and Local

Master Agreement number or Enrollment number*

01E60537

Agreement Public Customer Number*

SGN-

Proposal ID


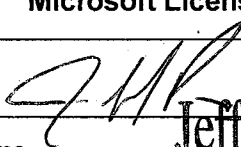
Microsoft to complete if applicable

***Note:** Enter the applicable active numbers associated with the below documents. Microsoft requires the associated active number be indicated here, or listed below as new.

This signature form sets out the documents entered into under this signature form and together along with the terms and conditions contained therein are part of the contract(s) identified above. This program signature form and all attachments identified are entered into between the Customer and Microsoft Affiliate signing, as of the effective date identified below.

Document Description	Document Number or Code
Enterprise Enrollment	X20-00091
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
<Choose One>	Document Number or Code
Supplemental Enterprise Agreement Terms & Conditions	None
Amendment	W16
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

Representations and warranties. By signing below, Customer attests they have received copies of the contract document(s) listed above, and the parties agree to be bound by the terms of the contract(s) and document(s) identified above, and Customer represents and warrants that (1) Customer has read and understands the terms therein, including all documents it incorporates by reference and any amendments to those document(s) and (2) agrees to be bound by those terms.

Customer	Contracting Microsoft Affiliate
Name of Entity *	Microsoft Licensing, GP
Signature * 	Signature 
Printed Name *	Printed Name Jeff Paris
Printed Title *	Printed Title Contract Administrator
Signature Date *	Signature Date (date Microsoft Affiliate countersigns) JAN 03 2008

ATTEST:

Volume Licensing Programs Signature Form
(North America State and Local English) September 3, 2007

APPROVED AS TO FORM:


City Attorney

Tax ID	Effective Date (may be different than Microsoft's signature date)
--------	--

* indicates required field

Optional 2nd Customer signature or Outsourcer Signature (if applicable)

Customer	Outsourcer
Name of Entity *	Name of Entity *
Signature *	Signature *
Printed Name *	Printed Name *
Printed Title *	Printed Title *
Signature Date *	Signature Date *

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it, along with completed documents, to Customer's channel partner or Microsoft account manager who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP

Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada USA 89511-1137

Prepared By:

Enterprise Enrollment

State and Local

Enterprise Enrollment number
(Microsoft to complete)

Proposal ID

Previous Enrollment number
(Reseller to complete)

Earliest expiring previous
Enrollment end date¹

¹ If consolidating from multiple previous Enrollments with Software Assurance, complete the multiple previous Enrollment form and attach it to this Enrollment. Enterprise Products can only be renewed from a Qualifying Enrollment. Additional Products can be renewed from any previous Enrollment with Software Assurance.

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as of the effective date identified in the signature form.

This Enrollment consists of (1) this document, (2) the terms of the Enterprise Agreement identified on the signature form, and (3) any supplemental contact information form or multiple previous enrollment form that may be required. If Customer's Enterprise Agreement is a version 6.4 or earlier, the Desktop Terms and Conditions are incorporated by reference.

All terms used but not defined are located at <http://microsoft.com/licensing/contracts>. In the event of any conflict the terms of this agreement control.

Effective date. If Customer is renewing Software Assurance from one or more previous Qualifying Enrollments, then the effective date will be the day after the first enrollment expires. Otherwise the effective date will be the date this Enrollment is accepted by Microsoft.

If renewing Software Assurance, the Reseller will need to insert the previous Enrollment number and end date in the respective boxes above.

Term. This Enrollment will expire 36 full calendar months from the effective date. It could be terminated earlier or renewed as provided in the Microsoft Enterprise Agreement. Microsoft will advise Customer of the renewal options before it expires.

Product order. The Reseller will provide Customer with Customer's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Customer and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

Qualifying systems licenses. All desktop operating system Licenses provided under this program are upgrade Licenses. *No full operating system Licenses are available under this program.* If Customer selects the Desktop Platform or the Windows Desktop Operating System Upgrade & Software Assurance, all Qualified Desktops on which the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://microsoft.com/licensing/contract>. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some subsequent true-ups and system refreshes during the term of this Enrollment.

For example, Windows XP Home Edition or successor Products are not qualifying operating systems.

1. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Customer consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <http://licensing.microsoft.com>.

- a. **Primary contact information:** The Customer of this Enrollment must identify an individual from inside its organization to serve as the primary contact. This contact is the default administrator for this Enrollment and receives all notices unless Microsoft is provided written notice of a change. The administrator may appoint other administrators and grant others access to online information.

Name of entity (must be legal entity name)* City of Branson
Contact name* First D.J Last Cline
Contact email* dcline@cityofbranson.org
Street address* 110 W Maddux STE 311
City* Branson State/Province* MO Postal code* 65616
Country* USA
Phone* 417 337 8592 Fax 417 335 2746
Tax ID (if applicable)

- b. **Notices and online access contact information:** This will designate a notices and online access contact different than the primary contact. This contact will replace the default administrator (primary contact) for this Enrollment and receive all notices. This contact may appoint other administrators and grant others access to online information.

☒ Same as primary contact

Name of entity (must be legal entity name)*

Contact name* First Last

Contact email*

Street address*

City* State/Province* Postal code*

Country*

Phone* Fax

☐ This contact is a third party (not the Customer). Warning: This contact receives personally identifiable information of the Customer.

- c. **Language preference:** Select the language for notices. English
- d. **Microsoft account manager:** Provide the Microsoft account manager contact for this Customer.

Microsoft account manager name:

Microsoft account manager email address:

- e. If Customer requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact remains the default.

- Duplicate electronic contractual notices contact
- Software Assurance benefits contact
- MSDN contact
- Online Services administrator

- f. This Enrollment is financed through MS financing ☐ Yes, ☒ No.

- g. **Reseller information**

Reseller company name* Software Spectrum

Street address (PO boxes will not be accepted)* 22721 E Mission Ave

City and State / Province and postal code* Liberty Lake, WA

Country* USA

Contact name * Loren Kilcup

Phone* 509-742-2327

Fax 480-760-6125

Email address* spectrummicrosoftdesk-na@softwarespectrum.com

The undersigned confirms that the information is correct.

Name of Reseller* Software Spectrum

Signature*

Katherine Hill

Printed name*

Katherine Hill

Printed title*

Senior Manager

Date*

12/31/07

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with one another, Customer must choose a replacement. If Customer intends to change the Reseller, it must notify Microsoft and the former Reseller, in writing on a form provided at least 30 days prior to the date on which the change is to take effect. The change will take effect 30 days from the date of Customer's signature.

2. Defining your Enterprise.

Use this section to identify which Affiliates are included in the Enterprise. Customer's Enterprise must consist of entire government agencies, departments or legal jurisdictions, not partial government agencies, departments, or legal jurisdictions. (Check only one box in this section.)

- ☒ Customer and all Affiliates are included (including new Affiliates acquired in the future)
- ☐ Customer and all Affiliates are included (*excluding* new Affiliates acquired in the future)
- ☐ Customer and the following Affiliates only are included

☐ The following Affiliates are excluded

3. Selecting the language option.

Select the option for the languages in which Customer will run the Products licensed under this Enrollment. The options are identified below and their corresponding languages are identified at <http://microsoft.com/licensing/contracts>.

Check one box



Listed Languages



All Languages

4. Establishing Customer price level.

The price level indicated in this section will be the price level for the initial Enrollment term for all Enterprise Products ordered and for any Additional Products in the same pool(s). The price level for any other Additional Products will be level "D".

Qualified Desktops: Customer represents that the total number of Qualified Desktops in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 desktops).	200
Qualified Users: Customer represents that the total number of Qualified Users in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 users).	

Number of desktops/ users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which Customer orders an Enterprise Product):	Qualified Desktop	Qualified User
	D	D

Price level (for pools in which Customer does not order an Enterprise Product):	Price level "D"

5. Enterprise Product orders.

Customer must select a desktop platform or any individual Enterprise Product before it can order Additional Products. The Office Product selection may be split between "professional plus" and "enterprise" editions within the Enterprise. The CAL selection must be the same across the Enterprise. The components of the current versions of any Enterprise Product are identified in the Product List.

Platform Product Selection (Select one)					
Professional Desktop		Enterprise Desktop		Custom Desktop	
<input checked="" type="checkbox"/>	Windows Desktop Operating System Upgrade Office Professional Plus Core CAL Desktop	<input type="checkbox"/>	Windows Desktop Operating System Upgrade Office Enterprise Enterprise CAL <Select>	<input type="checkbox"/>	Windows Desktop Operating System Upgrade <Select One or Both> <Select One> <Select>

Individual Enterprise Product Component Selection			
<input type="checkbox"/>	Windows Desktop Operating System Upgrade		
<input type="checkbox"/>	<Select One or Both>		
<input type="checkbox"/>	<Select One>	<Select>	

Unless stated/indicated otherwise, Microsoft will invoice Customer's Reseller in 3 equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and thereafter on the anniversary of the Enrollment. All subsequent new Additional Products and true-ups are billed in full.

Enterprise Enrollment

State and Local

Supplemental Enterprise Agreement Terms and Conditions

The following terms are required to update and supplement your license agreement to make it consistent with the current version of the Enterprise Agreement program and to allow for additional features and benefits which may or not have been available on the effective date of your license agreement.

For example, these terms address the following:

- your option to license some Client Access Licenses ("CALs") on a per user basis ("user-based CALs"), rather than on a per device basis, and some rights and obligations associated with user-based CALs;
- terms relating to ordering and use of online services;
- your right to order "step-up" licenses; and
- your ability, in some jurisdictions, to arrange for customized payment terms.

These terms and conditions amend your license agreement as it applies to this enrollment and any subsequent enrollments you or an enrolled affiliate enters into under it. It does not affect any prior enrollment already in existence. In the case of any conflict between these terms and conditions and the terms and conditions of your license agreement, these terms control.

1. Definitions.

If your license agreement does not already include a definition for "qualified users," the following definition of "qualified users" is added. In addition, if any references appear in your license agreement to the "Core User CAL" or "Core CAL," those references will be deemed to refer to any user-based CALs.

"qualified user" means a person who receives online services or who accesses any per-CAL server software licensed within the enrolled affiliate's enterprise. It does not include a person who accesses the software under an External Connector License. It also does not include a person who accesses the software in some other way that does not require a Client Access License ("CAL").

2. Terms relating to user-based CALs.

- a. Price levels where user-based CALs are ordered.** When user-based CALs are ordered as an enterprise product, other than as part of the "platform," the price level for any enterprise products or additional products ordered from the systems pool will be set based on the enrolled affiliate's initial number of qualified users, rather than its initial number of qualified desktops.

Similarly, upon any renewal, if user-based CALs are renewed, other than as part of the "platform," the renewal price level for the systems pool will be reset based on the number of the enrolled affiliate's qualified users at the time of renewal, rather than its number of qualified desktops.

- b. True-ups and update statements where user-based CALs are ordered.** The section of your license agreement that addresses the obligation to place true-up orders and submit update statements is hereby modified to require that, where user-based CALs are ordered as an enterprise product, the enrolled affiliate must determine the number of qualified users in its enterprise and, where that number has increased, submit a true-up order for L&SA for its user-based CALs covering those additional qualified users. If the number of qualified users has not increased, the enrolled affiliate must confirm this fact on its update statement.

Although annual true-up or update statements must be submitted within 60 days prior to or 15 days following the anniversary to meet the true-up requirement, an enrolled affiliate may also true-up more frequently at any time during the term of the enrollment.

Our commitment to work with the enrolled affiliate in good faith to accommodate changes in the number of its *qualified desktops* by more than ten percent as a result of mergers, acquisitions or divestitures will also apply, if user-based CALs are ordered as an enterprise product, in cases where the number of its *qualified users* changes by more than ten percent.

- c. **License grant for user-based CALs.** The following clarifications are made to the section of your license agreement titled "License grant — what your enrolled affiliates are licensed to run," to account for user-based CALs:

For CALs, your license grant is as follows: during the term, each qualified desktop (if device-based CALs have been ordered) or qualified user (if user-based CALs have been ordered) covered by the enrollment may access and use the associated server software.

Regarding the number of perpetual licenses received for user-based CALs: When user-based CALs have been ordered as an enterprise product, and once the enrolled affiliate qualifies for perpetual licenses, the number of the enrolled affiliate's perpetual licenses for such CALs will be equal to the number of qualified users covered by the enrollment, rather than the number of qualified desktops.

- d. **Placing renewal orders for user-based CALs.** Upon renewal of an enrollment, if user-based CALs were ordered as an enterprise product, the renewal order must include Software Assurance for such user-based CALs for the number of qualified users covered by the enrollment as of the date of renewal.

At renewal, where applicable, the enrolled affiliate can elect to exchange user-based CALs for device-based CALs or vice versa. In that event, the enrolled affiliate's renewal order must include L&SA for the number of qualified users or qualified desktops in excess of its current count. See the Product List for more information.

3. Online services.

The terms and conditions of your license agreement apply to online services subscriptions throughout the entire term of the subscription except as provided in your license agreement and in the Product List at <http://microsoft.com/licensing/contracts>. Online services are provided as subscription services and may carry terms that are independent of the agreement terms. Billing terms for online services subscriptions may also differ from the terms of this agreement. Online services are not perpetual under any circumstances. Except where online services are provided as part of other Licenses, true-ups do not apply to online services.

4. Right to order "step-up" Licenses.

If an already ordered product has multiple editions, an enrolled affiliate may migrate to the higher edition by ordering the applicable step-up. If step up details are included in an initial enrollment order, then the enrolled affiliate may step-up in accordance with the true-up process. If the step-up details are not included in the initial enrollment order, the enrolled affiliate may step-up by placing an order in the month the step-up is first run in accordance with the process set out for adding new additional products not previously ordered.

Enterprise Enrollment — State and Local

Amendment ID W16

Proposal ID

1. On the first page of the Enrollment, the following is added after the second paragraph:

By entering into this Enrollment, the Enrolled Affiliate agrees that (i) it also has 250 or more Qualified Desktops; or (ii) as a condition of entering into this Enrollment with 25-249 Qualified Desktops, Enrolled Affiliate has elected not to receive CD ROMs as part of the Enrollment and therefore no CD ROMs will automatically be shipped. If Enrolled Affiliate is enrolling with 25-249 Qualified Desktops and it would like to receive CD ROM Kits and updates, Enrolled Affiliate may order these through its Reseller for a fee.

2. The section entitled "Establishing Customer price level," is hereby amended and restated in its entirety with the following:

Establishing Integrator price level.

The price level indicated in this section will be Integrator's price level for the initial Enrollment term for all Enterprise Products Enrolled Affiliate orders and for any Additional Products in the same pool(s). Integrator's price level for any other Additional Products will be level "A".

Qualified Desktops: Enrolled Affiliate represents that the total number of Qualified Desktops in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number <i>may be less than 250 desktops, but must be at least 25 desktops</i>).	200
Qualified Users: Enrolled Affiliate represents that the total number of Qualified Users in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number <i>may be less than 250 users, but must be at least 25 users</i>).	

Number of desktops/users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which Integrator orders an Enterprise Product):	Qualified Desktop	Qualified User
	D	

Price level (for pools in which Integrator does not order an Enterprise Product):	Price level "D"
---	-----------------

This amendment must be attached to a signature form to be valid.

Enterprise Subscription Agreement**State and Local**

Not For Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

Agreement number
Microsoft affiliate to complete**Exhibit
'A'**

This Microsoft Enterprise Subscription Agreement is entered into between the following entities signing, as of the effective date identified below.

This agreement consists of (1) this cover page, (2) the contact information page(s), (3) the attached terms and conditions, (4) the Product List, (5) the product use rights applicable to products licensed under this agreement, and (6) any enrollment entered into under this agreement.

Effective date. The effective date of this agreement will be either the effective date of the first enrollment or the date we sign this agreement, whichever is earlier.

By signing below, the parties agree to be bound by the terms of this agreement.

<i>Customer</i>	<i>Contracting Microsoft affiliate</i>
Name of entity *	Microsoft Licensing, GP
Signature *	Signature
Printed name *	Printed name
Printed title *	Printed title
Signature date *	Signature date (date Microsoft affiliate countersigns)
	Effective date (may be different than our signature date)

* indicates required field

APPROVED AS TO FORM:

11-13-07

City Attorney

Contact information. Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, you consent to its use for purposes of administering this agreement by us, our affiliates, and other parties that help us administer this agreement. The personal information you provide in connection with this agreement will be used and protected according to the privacy statement available at <http://licensing.microsoft.com>.

Primary contact information: The customer signing on the cover page must identify an individual from inside its organization to serve as the primary contact. This contact is the default administrator for this agreement and receives all notices unless you provide us written notice of a change. The administrator may appoint others as administrators and grant others access to online information.

Customer		
Name of entity *		Contact name *
Same as entity name on the cover page		Last <i>Clive</i> First <i>D.J.</i>
Street address *		Contact email address (required for online access) *
<i>110 W. Maddux Brawson MO 65616</i>		<i>dcline@cityofbrawson.org</i>
City *	State/Province *	Phone
<i>Brawson</i>	<i>MO</i>	<i>417-337-8592</i>
Country *	Postal code *	Fax
<i>USA</i>	<i>65616</i>	<i>417-335-8746</i>

Notices and online access contact information: This will designate a notices and online access contact different than the primary contact. This contact will replace the default administrator for this agreement and will receive all notices. This contact may appoint others as administrators and grant others access to online information.

Notices and online access contact		
<input checked="" type="checkbox"/> Same as primary contact		
Name of entity *		Contact name *
		Last
		First
Street address *		Contact email address (required for online access) *
City *	State/Province *	Phone *
Country *	Postal code *	Fax
<input type="checkbox"/> Notices contact is a third party (not the customer)		Warning: Notices contact receives personally identifiable information of the customer.

Language preference: This section designates the language in which you prefer to receive notices.

English

Additional electronic contractual notices contact information: This contact will receive electronic contractual notices in addition to the notices contact. This contact is not required if you do not want a duplicate set of notices.

Electronic Contractual Notices Contact

Name of Entity*		Contact Name *
City of Brouson		D.J. Cline
Street Address*		Contact Email Address (required for electronic notices)*
110 W Maddux		dcline@cityofbrouson.org
City*	State/Province*	Phone*
Brouson	MO	417-337-8592
Country*	Postal Code*	Fax
USA	65616	417-338-2746
<input type="checkbox"/> Notices contact is a third party (not the customer)		Warning: Notices contact receives personally identifiable information of the customer.

Microsoft Account Manager: This section designates your Microsoft Account Manager contact.

Microsoft Account Manager Name	Microsoft Account Manager Email Address
	@microsoft.com

Terms and Conditions

1. Definitions.

In this agreement, "you" means the entity that has entered into this agreement with us, and "we" or "us" means the Microsoft entity that has entered into this agreement or an enrollment. In addition, the following definitions apply:

"additional product" means any product other than an enterprise product that an enrolled affiliate chooses to license under its enrollment;

"affiliate" means (a) with regard to you, (i) any government agency, department, office, instrumentality, division, unit or other entity of your state or local government that is supervised by or is part of you, or which supervises you or of which you are a part, or which is under common supervision with you; (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of your state and located within your state's jurisdiction and geographic boundaries; and (iii) any other entity in your state expressly authorized by the laws of your state to purchase under state contracts; provided that a state and its affiliates shall not, for purposes of this definition, be considered to be affiliates of the federal government and its affiliates; and (b) with regard to us, any legal entity that we own, that owns us, or that is under common ownership with us;

"available" means, with respect to a product, that we have made licenses for that product available for ordering under a particular licensing program;

"commercial product" means any product we make available for license for a fee;

"enrolled affiliate" means an entity, either you or any one of your affiliates that has entered into an enrollment under this agreement;

"enrollment" means the document that you or your affiliate submits under this agreement to sign up for this program;

"enterprise" means the enrolled affiliate and the affiliates it chooses on its enrollment to include in its enterprise;

"enterprise product" means any product that we designate as an enterprise product and that an enrolled affiliate chooses to license under its enrollment (enterprise products may only be licensed on an enterprise-wide basis under this program);

"free product" means any product we make available for license without charge;

"fix(es)" means product fixes, modifications or enhancements or their derivatives that we either release generally (such as commercial product service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds);

"License" means any one of those offerings identified in the Product List (including standard licenses, and upgrades for desktop operating systems) that provides the right to run the version of the product for which it is ordered;

"L&SA" means a License and Software Assurance for any product ordered;

"pre-release" or "beta" products are products provided prior to commercial release;

"product" means all commercial, free, pre-release and beta products, including online services and other web based services;

"Product List" means, with respect to any licensing program, the statement published by Microsoft from time to time on the World Wide Web at <http://microsoft.com/licensing/contracts>, or at a successor site that we identify, that identifies the products that are or may be made available under each of the volume licensing programs, and identifies which products are available to Enterprise Subscription Agreement

program customers and any product-specific conditions or limitations on the acquisition of licenses for those products;

"qualified desktop" means any personal desktop computer, portable computer, workstation or similar device that is used by or for the benefit of an enrolled affiliate or any affiliate included in its enterprise and that meets the minimum requirements for running any of the enterprise products. Qualified desktops do not include: (i) any computer that is designated as a server and not used as a personal computer, (ii) any system dedicated to run ONLY line-of-business software (e.g., an accounting or bookkeeping program used by an accountant, or a computer-aided design program used by an engineer or architect); or (iii) any system running an embedded operating system (e.g. Windows 9.x for embedded, Windows XP embedded);

"qualified user" means a person who accesses any Client Access License "CAL" server software licensed within an enrolled affiliate's enterprise. It does not include a person who accesses the software under an External Connector License. It also does not include a person who accesses the software in some other way that does not require a CAL;

"reseller" means a large account reseller authorized by us to resell licenses in an enrolled affiliate's area under this program;

"run" or "use" means to copy, install, use, access, display, run or otherwise interact with;

"Services" means product support or other services that an enrolled affiliate elects to purchase on its enrollment;

"Software Assurance" means, for any underlying licensed product for which it is ordered, the right to upgrade to, and run in place of the underlying licensed product, the latest version of that product that we make available during the covered period.

2. *How the Enterprise Subscription Agreement program works.*

The Enterprise Subscription Agreement program gives customers that wish to license one or more of Microsoft's platform products on a subscription basis across their enterprise the means to ensure that their entire enterprise will be licensed (to license a product on a subscription basis means that the right to run the product is non-perpetual and continues only during the term of an enrollment). You and your affiliates can participate in this program by submitting one or more enrollments under this agreement. On the enrollment, the enrolled affiliate will designate the scope of its enterprise and make the initial selection of enterprise products and any additional products it wishes to license. Each enrollment must include at least one of those products that we make available to license as an enterprise product. We may refuse to accept an enrollment if we have a business reason for doing so. Notwithstanding any other provision of this agreement, only enrolled affiliates identified in an enrollment will be responsible for complying with the terms of that enrollment, including the terms of this agreement incorporated by reference in that enrollment.

- a. Establishing price levels.** Each product is assigned to one of the following pools: applications, servers or systems. An enrolled affiliate's reference prices are based on the "price level" for which it qualifies in each individual product pool. Price levels are established separately for each enrollment as described in this subsection.

Product pools from which an enterprise product has been ordered. Generally, for each product pool from which an enrolled affiliate orders an enterprise product, the price level for the first year of its enrollment for any enterprise products or additional products from that pool will be the price level for which the enrolled affiliate qualifies based on its initial number of qualified desktops. Price levels will be reset each year of the enrollment term (including any renewal) based upon the total number of the enrolled affiliate's qualified desktops as of the date of each annual order.

When the user CAL is ordered, price levels for any enterprise products or additional products ordered from the server pool are established as follows:

- If the user CAL is ordered as part of the platform, then that price level is set as provided in the general rule.
- If the user CAL is ordered in any other way, then the price level for the first year of its enrollment will be set based on the enrolled affiliate's initial number of qualified users. Price levels will be reset each year of the enrollment term (including any renewal) based on the total number of the enrolled affiliate's qualified users as of the date of each annual order.

Product pools from which no enterprise product has been ordered. For any product pool from which the enrolled affiliate does not order an enterprise product, the price level for additional products within that pool will be price level "A" throughout the term of the enrollment (including any renewals).

- b. Deriving prices from price levels.** Prices for each price level for each product will be provided to each enrolled affiliate. Although the price level for pools in which the enrolled affiliate orders at least one enterprise product may change from year to year, the prices for each price level are fixed as described in this subsection. The enrolled affiliate's prices during any particular year of the applicable initial enrollment or renewal term will be the prices that correspond to the price level it qualifies for as of the date of its applicable annual order.

Prices for products ordered at signing. Prices for each price level for the products ordered at signing will not change throughout the initial term.

Prices for new additional products added after signing. If an enrolled affiliate adds a new additional product during the initial enrollment or any renewal term, the enrolled affiliate will be provided with prices for each price level for that product at the time that it first adds that product, and those prices will apply throughout the remainder of that term.

Prices for renewal orders. The enrolled affiliate will be provided with new prices for each price level for all products being renewed at the time that the enrolled affiliate renews, and those prices will not change throughout the renewal term from the date of the enrolled affiliate's renewal order.

Price parity between the Enterprise Agreement program and Enterprise Subscription Agreement program. Annual list prices for each product and price level under the Enterprise Subscription Agreement program on the date of any renewal or buy-out order may be higher or lower than the annual list prices for the same products and price levels for the first order during the preceding enrollment term under this agreement. However, any percentage change in the new annual list prices will not exceed the percentage change in the annual L&SA list prices for those same products and price levels under the Enterprise Agreement program from the date of the enrolled affiliate's first order for those products during the preceding term of this agreement through the date of its renewal or buy-out order.

- c. How your enrolled affiliates acquire licenses.** An enrolled affiliate will acquire its licenses through its chosen reseller. Orders under an enrollment will be made out to and submitted to the enrolled affiliate's reseller. We will invoice that reseller according to the terms in the applicable enrollment. The reseller and the enrolled affiliate will determine the enrolled affiliate's actual price and payment terms.

- d. Choosing and maintaining a reseller.**

Each enrolled affiliate that signs an enrollment must choose and maintain a reseller in the enrolled affiliate's area.

Changing a reseller. If we or an enrolled affiliate's reseller choose to discontinue doing business with one another, the enrolled affiliate must choose a replacement. If the enrolled affiliate intends to change its reseller, it must notify us and the former reseller, in writing on a form that we provide at least 30 days prior to the date on which the change is to take effect. The change will take effect 30 days from the date of your signature.

3. How to order enterprise product licenses.

- a. Placing the initial order.** Each enrolled affiliate must submit an initial order for the enterprise products it selects with its enrollment. Generally, each order will be for L&SA for each enterprise product for each qualified desktop. Orders for the user CAL will be for L&SA for each qualified user. When placing orders, an enrolled affiliate must specify the country or countries where the enrolled affiliate and its affiliates will use the licenses.
- b. Adding new enterprise products.** An enrolled affiliate may only add new enterprise products by entering into a new enrollment.
- c. Stepping up to a higher enterprise product edition.** If an already ordered enterprise product has multiple editions, an enrolled affiliate may migrate to the higher edition by ordering the applicable step-up. If step-up details are included in an initial enrollment order, then the enrolled affiliate may step-up at the anniversary in accordance with the section entitled "Placing annual orders." If the step-up is not included in an initial enrollment order, the enrolled affiliate may step-up by placing an order in the month the step-up is first run in accordance with the process set out in the section entitled "Adding new additional products not previously ordered."
- d. Placing annual orders.** At each anniversary of its enrollment effective date (including anniversaries during any renewal), each enrolled affiliate must calculate the then current number of qualified desktops and qualified users covered by the enrolled affiliate's enrollment. Each enrolled affiliate must then submit an order for L&SA within 15 days following the anniversary of its enrollment effective date for the following:
 - A number of qualified desktops equal to the greater of (i) the current number of qualified desktops covered by its enrollment, or (ii) 250.
 - When ordering user CAL a number of qualified users equal to the greater of (i) the current number of qualified users covered by its enrollment, or (ii) 250.

At each anniversary, an enrolled affiliate that ordered device CALs in the prior year can instead order user CALs, or vice versa. See the Product List for more information.

4. How to order additional product licenses.

- a. Placing the initial order.** Each enrolled affiliate must submit an initial order for the additional products it has selected with its enrollment, if any. Each order will be for L&SA for all copies of those additional products. When placing orders, an enrolled affiliate must specify the country or countries where the enrolled affiliate and its affiliates will use the licenses.
- b. Adding new additional products not previously ordered.** Each enrolled affiliate must order L&SA for all copies of each new additional product run under its enrollment that was not part of its initial order. The order must be placed in the month in which those copies are first run.
- c. Adding more copies of additional products previously ordered.** At any time during the term of its enrollment (including any renewal), an enrolled affiliate may run additional copies of any previously ordered additional product, provided that the enrolled affiliate orders L&SA for such copies. The order must be placed in the month in which those copies are first run.
- d. Placing annual orders.** At each anniversary of the enrollment effective date (including anniversaries during any renewal), each enrolled affiliate must submit an order for L&SA for all copies of all additional products being run under its enrollment as of the applicable anniversary date. Each order must be placed within 15 days of each anniversary of the enrollment effective date.
- e. Stepping up to a higher additional product edition.** If an already ordered additional product has multiple editions, an enrolled affiliate may migrate to the higher edition by ordering the applicable step-up. If step-up details are included in an initial enrollment order, then the

enrolled affiliate may step-up at the anniversary in accordance with the section entitled "Placing annual orders." If the step-up is not included in an initial enrollment order, the enrolled affiliate may step-up by placing an order in the month the step-up is first run in accordance with the process set out in the section entitled "Adding new additional products not previously ordered."

5. How to confirm orders.

We will publish information about orders placed by each enrolled affiliate, including an electronic confirmation of each order, in a password-protected site on the World Wide Web at <https://licensing.microsoft.com> or a successor site that we identify. Upon our acceptance of this agreement and enrollments entered into under this agreement, the contact identified for this purpose in the contact information page(s) will be provided access to this site.

6. License grant -- what your enrolled affiliates are licensed to run.

Upon our acceptance of its enrollment, the enrolled affiliate has the following rights. These rights apply to the licenses obtained under an enrollment and are not related to any order or fulfillment of software media.

- **Enterprise products.** As long as the enrolled affiliate places annual orders as required in subsection 3(d) (Placing annual orders), each enrolled affiliate may, during the term of its enrollment (including any renewal), run one copy of the latest version (or any prior version) of each enterprise product, other than the CAL, on each qualified desktop. For the CAL, each qualified desktop or qualified user covered by an enrollment may, during the term of the enrollment (including any renewal), run server software as specified in the product use rights for that CAL. By including affiliates in its enterprise, the enrolled affiliate sublicenses this right to each of them subject to the terms of this agreement.
- **Additional products.** Each enrolled affiliate may, during the initial year of its enrollment, run for its own benefit the number of copies of each additional product ordered, in the latest version (or any prior version). Thereafter, as long as the enrolled affiliate orders L&SA for such products as required in subsections 4(b) - (d) of this agreement (Adding new additional products not previously ordered), (Adding more copies of additional products previously ordered), and (Placing annual orders), it may, during the applicable year of its enrollment (including any renewal), run for its own benefit the number of copies of each additional product ordered, in the latest version (or any prior version). If an affiliate included in any enrolled affiliate's enterprise runs any copies of an additional product under this agreement, such copies are sublicensed from that enrolled affiliate subject to the terms of this agreement.

The ability to run current or later versions of a product licensed under this agreement could be affected by minimum system requirements or other factors (e.g., hardware or other software).

The right to run any product under this agreement is temporary, unless an enrolled affiliate elects to obtain perpetual licenses under the buy-out option. This agreement, the applicable enrollment, and the enrolled affiliate's order confirmation, together with proof of payment, will be the enrolled affiliate's evidence of all licenses obtained under its enrollment as described in this agreement.

7. How to know what product use rights apply.

The product use rights applicable to products licensed under each enrollment are as follows.

- a. **For latest versions available as of an enrollment effective date.** For the latest version of any product available on or before the enrollment effective date, the product use rights in effect on the enrollment effective date for that product and version apply.
- b. **For versions and products that become available after an enrollment effective date.** For any version of any existing product, or any new product, first made available after the

enrollment effective date, the product use rights in effect on the date on which the version or product first becomes available apply (subject to our commitment on use rights below).

- c. For versions of a product that predate the latest version available as of an enrollment effective date.** If an enrolled affiliate is using an earlier version of any product licensed under its enrollment that became available prior to the version that was current on the enrollment effective date, the enrolled affiliate's use of the earlier version will be governed by the product use rights that would apply if the enrolled affiliate were using the latest version that is or becomes available at any time during its enrollment. If that earlier version contains software components that are not included in the latest version, then use of those components will be governed by the product use rights for that earlier version specific to those components.

d. Microsoft's commitment on use rights.

For all products – use rights fixed by version. We will not change an enrolled affiliate's product use rights under this agreement for any version of a product after it becomes available to that enrolled affiliate under its enrollment.

For enterprise products – no detrimental use right changes in new versions.

- (i) For new versions made available during the initial enrollment term.** If we make available a new version of any enterprise product during the initial enrollment term and that new version is subject to certain use rights that are more restrictive than those that applied to a prior version under an enrollment that was or became available during the initial enrollment term, the enrolled affiliate may run that new version without being subject to those certain more restrictive use rights.
- (ii) For new versions made available during each renewal term.** Upon each renewal of L&SA for an enterprise product, an enrolled affiliate's use of that product will be governed by the use rights that apply to the latest version of that product available as of the date of that renewal, including any terms that are more restrictive than those that applied to a previous version of that product licensed by that enrolled affiliate under its enrollment during the preceding term. However, if during a renewal term we make available a new version of that same enterprise product with certain use rights more restrictive than those use rights that applied to a prior version licensed under an enrollment that was or became available during that same term, the enrolled affiliate may run the new version without being subject to those certain more restrictive use rights.
- (iii) New features or functionality.** The right described in subsections (i) and (ii) above does not apply to product use rights that relate specifically to new features or functionality added to a new version.

- e. Perpetual licenses.** Any reference in the product use rights to a right to run products on a perpetual basis only applies if an enrolled affiliate elects to obtain perpetual licenses under the buy-out option. Perpetual licenses acquired under this agreement remain subject to the terms of this agreement.

8. Software Assurance Membership.

Throughout the term of its enrollment (including any renewal), each enrolled affiliate automatically qualifies as a member of Microsoft's Software Assurance Membership program. Membership may entitle the enrolled affiliate to special benefits. These benefits may be subject to additional terms and conditions. For a description of these benefits, an enrolled affiliate should see the Product List, its reseller or Microsoft account manager.

9. Making copies of software.

- a. Copies for internal deployment.** Each enrolled affiliate may make as many copies of the products licensed as necessary to distribute the products to its users. All copies of any product must be true and complete copies (including copyright and trademark notices) and be made from media or a network source, acquired from or made available by a Microsoft approved fulfillment source for that product. Each enrolled affiliate may also have a third party make and distribute copies in its place, but the enrolled affiliate is responsible for third-party actions to the same extent it would be if the third party were its employee. You and your affiliates must make reasonable efforts to make employees, agents and other individuals running a product aware that the product is licensed from us and may only be run or transferred subject to the terms of this agreement.
- b. Copies for training, evaluation and back-up.** During the term of its enrollment each enrolled affiliate and any affiliate included in its enterprise may (i) run up to 20 complimentary copies of any product in a dedicated training facility on their premises; (ii) run up to 10 complimentary copies of any product for a 60-day evaluation period; and (iii) make and retain one complimentary copy of any licensed product for back-up or archival purposes for each of their distinct geographic locations.
- c. Re-imaging rights.** Re-imaging is permitted using the product media on the following conditions. If the Microsoft product is licensed (i) from an original equipment manufacturer (OEM), (ii) as full packaged product through a retail source, or (iii) under another Microsoft program, then media provided under this agreement may be used to create images for other licensed machines in place of media provided through that separate source. The right is conditional upon the following:
- (i) A separate license must be owned from the separate source for each re-image.
 - (ii) The product, language, version and components licensed under this agreement must be identical to the product, language, version and all components licensed from the separate source.
 - (iii) Except for copies of an operating system and copies of products licensed under another Microsoft program, the product type (e.g. upgrade or full license) must be identical to the product type from the separate source.

Re-images made under this subsection remain subject to the terms and use rights provided with the license from the separate source. This subsection does not create or extend any warranty or support obligation.

10. Transferring and reassigning licenses.

An enrolled affiliate may not transfer any licenses acquired under this agreement except by obtaining perpetual licenses as provided in this agreement and transferring them in accordance with the procedures described in this subsection.

- a. How to transfer perpetual licenses to affiliates or other third parties.** An enrolled affiliate may transfer perpetual licenses ordered under an enrollment to an affiliate, or to an unaffiliated third party in connection with a privatization of the enrolled affiliate, as long as the enrolled affiliate provides us with prior written and signed notice, on a form that we provide, that includes: (i) the applicable enrollment number; (ii) the quantity of licenses being transferred by product and version; (iii) the name, address and contact information of the transferee; and (iv) any other information that we may reasonably request.

For all transfers of such perpetual licenses other than as described above, our written consent is required. We will not withhold our consent unreasonably. No license transfer will be valid unless the enrolled affiliate provides to the transferee, and the transferee accepts in writing the applicable product use rights, use restrictions, limitations of liability, and the transfer restrictions in this section 10. Any transfer made in violation of the requirements or restrictions of this section will be void.

- b. When transfers of perpetual licenses to affiliates or other third parties are not permitted.** An enrolled affiliate may not transfer (i) licenses on a short-term basis (90 days or less), or (ii) upgrade licenses for a desktop operating system product separately from the underlying desktop operating system license or from the computer system on which the product is first installed.
- c. Internal reassignment of licenses.** Licenses for products other than the desktop operating system may be reassigned within an enrolled affiliate or an affiliate. However, an enrolled affiliate may not reassign: (i) licenses on a short-term basis (90 days or less), or (ii) except as provided in Subsection (d) below, Software Assurance coverage or other upgrade rights separately from the underlying license. Enrolled affiliates may not reassign desktop operating system licenses from the device on which the software is first installed.
- d. Internal reassignment of Software Assurance coverage for the desktop operating system.** An enrolled affiliate may reassign Software Assurance coverage ordered for an underlying desktop operating system product installed on one computer to a replacement computer as long as:
- (i) that replacement computer is licensed to run one of the qualifying operating systems identified in the Product List for replacement computers, and
 - (ii) the enrolled affiliate removes from the original computer any desktop operating system upgrades that were installed under its enrollment.

An enrolled affiliate may not otherwise separate Software Assurance coverage or any related upgrade right from the underlying license for which it is ordered.

11. Term, termination and renewal.

- a. Term.** This agreement will remain in effect unless it is terminated by either party as described below. Each enrollment will have the term provided in that enrollment.
- b. Termination of this agreement.** Either party may terminate this agreement for any reason upon 60 days written notice.

Such termination will merely terminate either party's and its affiliates' ability to enter into new enrollments under this agreement. Such termination will not affect any enrollment not otherwise terminated, and any terms of this agreement applicable to any enrollment not otherwise terminated will continue in effect with respect to that enrollment.

- c. Termination of an enrollment.** Either party to an enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay amounts owed (even if such non-payment is caused by non-appropriation of funds). Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure.

Termination by us. If we give notice of termination to an enrolled affiliate as a result of a breach, we will give you a copy of that notice as well and you agree to assist in attempting to resolve the problem. If the problem also affects other enrollments and cannot be resolved between you and us within a reasonable period of time, we may also terminate this agreement and all other enrollments under it, unless the basis for termination of the enrollment is non-appropriation of funds to the enrolled affiliate, in which event we may only terminate the affected enrollment(s). If an enrolled affiliate ceases to be your affiliate, you must promptly notify us of this fact, and we may terminate its enrollment.

Termination by an enrolled affiliate. If an enrolled affiliate terminates its enrollment as a result of our breach or as a result of non-appropriation of funds as described below, the enrolled affiliate

will have the option to obtain perpetual licenses as described in subsection (d) (Options upon completion of an initial enrollment or renewal term), provided that it submits its buy-out order for those licenses within 60 days after it provides notice of termination.

Termination of enrollment – non-appropriation of funds. An enrolled affiliate may terminate an enrollment without liability, penalty or further obligation to make payments, if funds to make payments under the enrollment are not appropriated or allocated for such purpose, subject to enrolled affiliate's options and obligations as described in subsection (d) (Options upon completion of an initial enrollment or renewal term).

d. Options upon completion of an initial enrollment or renewal term. We will provide each enrolled affiliate with 60 days prior written notice of expiration of its initial enrollment or renewal term. Our notice will advise the enrolled affiliate of its option to: (i) renew its enrollment, (ii) exercise its buy-out option, or (iii) allow its enrollment to expire:

- **Enrollment renewal option.** An enrolled affiliate may have the option to renew its enrollment for one term of 12 or 36 full calendar months. We and our affiliates will not unreasonably reject any renewal order. However, we may make a change to this program that will make it necessary for you and your enrolled affiliates to first enter into new agreements and enrollments.

To renew, the enrolled affiliate must submit a renewal order within 30 days after the previous term expired. The order will be for L&SA for:

- (i) for enterprise products other than the user CAL, a number of qualified desktops equal to the greater of (a) the number of qualified desktops covered by its enrollment as of the date of the renewal order, or (b) 250;
- (ii) when ordering user CAL, for a number of qualified users equal to the greater of (a) the number of qualified users covered by its enrollment as of the date of the renewal order, or (b) 250; and
- (iii) for all copies of any additional products that the enrolled affiliate wishes to renew.

At renewal, an enrolled affiliate that ordered device CALs in the prior year can instead order user CALs, or vice versa. See the Product List for more information.

The renewal term will start on the day following expiration of the prior term. A renewing enrolled affiliate may not add new enterprise products not previously ordered. An enrolled affiliate must submit a new enrollment to license new enterprise products..

- **Buy-out option.** An enrolled affiliate may elect to obtain perpetual licenses for products licensed under its enrollment. The enrolled affiliate must submit a buy-out order at least 30 days prior to the end of the enrollment term for:
 - (i) L&SA for (a) qualified desktops and qualified users covered by its enrollment that are added during the final year of the applicable initial enrollment or renewal term through the date of its buy-out order, and (b) any copies of any new additional products or copies of additional products previously ordered that the enrolled affiliate is running and for which it has not yet placed an order;
 - (ii) perpetual licenses at the buy-out price for that number of copies of each enterprise product, except for user CAL, equal to the total number of the enrolled affiliate's qualified desktops as of the date of its buy-out order;
 - (iii) perpetual licenses at the buy-out price for each user CAL, if ordered on the previous annual order, equal to the total number of the enrolled affiliate's qualified users as of the date of its buy-out order; and
 - (iv) perpetual licenses at the buy-out price for the number of copies of additional products the enrolled affiliate elects to obtain.

For buy-out orders, the perpetual license price for each product will equal 1.75 times the current annual reference price as of the buy-out order date. The price level for the buy-out order will be the price level the enrolled affiliate qualified for as of the anniversary of the enrollment effective date immediately preceding the applicable expiration date. The annual price used as the basis for determining the buy-out order price could be different than the fixed annual price for the same product. The enrolled affiliate's order confirmation for the buy-out and any documentation evidencing transfers of licenses, together with proof of payment, will be its evidence of a perpetual license to run the latest version then available (or any prior version) for the copies of those products covered by the buy-out order.

- **Allow the enrollment to expire.** If the enrolled affiliate does not submit a renewal order, the enrollment will expire. Because all licenses acquired under this agreement are temporary, an enrolled affiliate will not be eligible to obtain Software Assurance for those licenses under any other program without first acquiring a perpetual license or L&SA.

e. Effect of termination, expiration or non renewal of an enrollment, or of election not to exercise buy-out option.

If (i) an enrolled affiliate's enrollment is terminated or expires, and is not otherwise renewed, or (ii) that enrolled affiliate does not exercise its buy-out option, then all copies of the products licensed under that enrollment and the associated media must be deleted and destroyed. We may request written certification of such deletion and destruction.

12. Restrictions on use.

An enrolled affiliate may not:

- Separate the components of a product made up of multiple components by running them on different computers, by upgrading or downgrading them at different times, or by transferring them separately, except as otherwise provided in the product use rights;
- Rent, lease, lend or host products or fixes, except where we agree by separate agreement;
- Reverse engineer, de-compile or disassemble products or fixes, except to the extent expressly permitted by applicable law despite this limitation; or

Products and fixes licensed under this agreement are subject to U.S. export jurisdiction. You must comply with all applicable domestic and international export laws and regulations that apply to the products and fixes. Such laws include restrictions on destinations, end users and end use. For additional information, see <http://www.microsoft.com/exporting>.

13. Confidentiality.

Subject to the requirements of your public records law, if any, the terms and conditions of this agreement are confidential. Neither you nor we will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than your or our affiliates or agents, or to your designated or prospective resellers who: (a) have a need to know such information to assist in carrying out this agreement; and (b) have been instructed by you or us that all such information is to be handled in strict confidence.

14. Warranties.

- a. Limited product warranty.** We warrant that each version of a commercial product will perform substantially in accordance with our user documentation. This warranty is valid for a period of one year from the date an enrolled affiliate first runs a copy of the version. To the maximum extent permitted by law, any warranties imposed by law concerning the products are limited to the same extent and the same one-year period. This warranty does not apply to components of products that an enrolled affiliate is permitted to redistribute under applicable product use rights, or if failure of the product has resulted from accident, abuse or

misapplication. If you notify us within the warranty period that a product does not meet this warranty, then we will, at our option, either (i) return the price paid for the product or (ii) repair or replace the product. To the maximum extent permitted by law, this is your exclusive remedy for any failure of any product to function as described in this subsection.

b. Free and beta products. To the maximum extent permitted by law, free and beta products are provided "as-is," without any warranties. You acknowledge that the provisions of this paragraph with regard to pre-release and beta products are reasonable having regard to, among other things, the fact that they are provided prior to commercial release so as to give you the opportunity (earlier than you would otherwise have) to assess their suitability for your business, and without full and complete testing by us.

c. NO OTHER WARRANTIES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, OTHER THAN THOSE IDENTIFIED EXPRESSLY IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS, FIXES OR RELATED MATERIALS. WE WILL NOT BE LIABLE FOR ANY SERVICES OR PRODUCTS PROVIDED BY THIRD-PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU BY US UNLESS SUCH THIRD-PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN SUCH AGREEMENT.

15. Defense of infringement and misappropriation claims.

We will defend you against any claims made by an unaffiliated third party that any product or fix infringes its patent, copyright or trademark or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and we will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act.

Our obligations will not apply to the extent that the claim or adverse final judgment is based on (i) your running of the product or fix after we notify you to discontinue running due to such a claim; (ii) your combining the product or fix with a non-Microsoft product, data or business process; (iii) damages attributable to the value of the use of a non-Microsoft product, data or business process; (iv) your altering the product or fix; (v) your distribution of the product or fix to, or its use for the benefit of, any third party; (vi) your use of our trademark(s) without express written consent to do so; or (vii) for any trade secret claim, your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than us or our affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will be responsible for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to a commercial product or fix, we may, at our expense and without obligation to do so, either (i) procure for you the right to continue to run the allegedly infringing product or fix, or (ii) modify the product or fix or replace it with a functional equivalent, to make it non-infringing, in which case you will stop running the allegedly infringing product immediately. If, as a result of an infringement claim, your use of a commercial product or fix is enjoined by a court of competent jurisdiction, we will, at our option, either procure the right to continue its use, replace it with a functional equivalent, modify it to make it non-infringing, or refund the amount paid and terminate the license for the infringing product or fix.

If any other type of third-party claim is brought against you regarding our intellectual property, you must notify us promptly in writing. We may, at our option, choose to treat these claims as being covered by this section. This Section 16 provides your exclusive remedy for third party infringement and trade secret misappropriation claims.

16. Limitation of liability.

a. Limitation on direct damages. There may be situations in which you or an enrolled affiliate have a right to claim damages or payment from us. Except as otherwise specifically provided in this subsection, whatever the legal basis for the claims, our liability and that of our suppliers will be limited, to the maximum extent permitted by applicable law, to direct damages up to the amount you or the enrolled affiliate have paid for the product or services giving rise to the claims. In the case of no-charge or gratuitous free product or services, or code you or an enrolled affiliate are authorized to redistribute to third parties without separate payment to us, our total liability to you or the enrolled affiliate will not exceed US\$5000. The limitations contained in this paragraph will not apply with respect to the following in connection with the performance of this agreement:

(i) our obligations under Section 15 to defend third party claims of patent, copyright or trademark infringement or trade secret misappropriation, and to pay damages resulting from any final adjudication (or settlement to which we consent) of such claims;

(ii) our liability for damages for gross negligence or willful misconduct, to the extent caused by us or our agent and awarded by a court of final adjudication; and

(iii) our obligations under section 13 (Confidentiality).

b. No liability for certain damages. To the maximum extent permitted by applicable law, neither party nor any of its affiliates or suppliers will be liable for any indirect damages (including, without limitation, consequential, special or incidental damages, damages for loss of profits or revenues, business interruption, or loss of business information) arising in connection with any agreement, product, fix or service, even if advised of the possibility of such damages or if such possibility was reasonably foreseeable. This exclusion of liability does not apply to either party's liability to the other for violation of its confidentiality obligation or of the other party's intellectual property rights.

c. Application. Except as specified expressly in this Section 16, the limitations on and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.

17. Verifying Compliance.

You must keep records relating to the products you and any affiliate run. We have the right to verify compliance, at our expense, during the term of this agreement and for a period of one year thereafter. To do so, we will engage an independent accountant from a nationally recognized public accounting firm, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days notice, during normal business hours and in a manner that does not interfere unreasonably with your operations. As an alternative, we may require you to accurately complete our self-audit questionnaire relating to the products you and any affiliates use. You will have the right to conduct a self-audit relating to the products you and any affiliates use prior to any third-party audit if (a) the governor of your state has issued an executive order (or state legislation exists) requiring software licensing compliance statewide and for state-funded agencies (including local governments), and (b) your state has adopted and implemented a statewide licensing compliance software asset management program reasonably acceptable to Microsoft. If verification or self-audit reveals unlicensed use of products, you

must promptly order sufficient licenses to permit all product usage disclosed. If material unlicensed use is found (license shortage of 5% or more), you must reimburse us for the costs we have incurred in verification and acquire the necessary additional licenses as single retail licenses within 30 days. If we undertake such verification and do not find material unlicensed use of products, we will not undertake another verification of the same entity for at least one year. We and our auditors will use the information obtained in compliance verification only to enforce our rights and to determine whether you are in compliance with the terms of this agreement. By invoking the rights and procedures described above, we do not waive our rights to enforce this agreement or to protect our intellectual property by any other means permitted by law.

18. Miscellaneous.

- a. Notices to us.** Notices, authorizations, and requests given or made in connection with this agreement must be sent by post, express courier or facsimile to the addresses and numbers indicated. Notices will be deemed delivered on the date shown on the postal return receipt or on the courier, facsimile or email confirmation of delivery.

<i>Notices to Microsoft should be sent to:</i>	<i>Copies should be sent to:</i>
Microsoft Licensing, GP Dept. 551, Volume Licensing 6100 Nell Road, Suite 210 Reno, Nevada USA 89511-1137	Microsoft Corporation Law and Corporate Affairs Volume Licensing Group One Microsoft Way Redmond, WA 98052 USA Via facsimile (425) 936-7329

- b. Assignment.** This agreement may be assigned by either party only to an affiliate, but assignment will not relieve the assigning party of its obligations under the assigned agreement. If either party assigns this agreement or any enrollment, it must notify the other party of the assignment in writing.
- c. Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend this agreement to give effect to the stricken clause to the maximum extent possible.
- d. Waiver.** No waiver of any breach of this agreement shall be a waiver of any other breach, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.
- e. Force Majeure.** To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.
- f. Non-exclusivity.** This agreement and all enrollments under it are non-exclusive. Nothing contained in this agreement or any such enrollment requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.
- g. Entire agreement.** The documents identified on the cover page to this agreement constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. In the case of a conflict between any of these documents that is not resolved expressly in the documents, Their terms will control in the following order: (i) these terms and conditions and the accompanying cover page and contact information page(s); (ii) the Product List; (iii) the product use rights; and (iv) all other enrollments under this agreement. The terms of any purchase order or any general terms and conditions you or your affiliates maintain, other than

those mandatory terms required by statute or regulation, do not apply. This agreement (except the product use rights, the Product List and the terms of any credit extended under any direct enrollment) can be changed only by an amendment signed by both parties.

- h. Survival.** Provisions regarding product use rights, restrictions on use, evidence of perpetual licenses, transfer of licenses, warranties, defense of infringement and misappropriation claims, limitations of liability, confidentiality, compliance verification and obligations on termination or expiration will survive termination or expiration of this agreement or any enrollment.
- i. Independent contractors.** Software advisors and resellers are independent contractors who act in their own name and for their own account; they have no authority to bind or impose any obligation or liability upon us.
- j. Applicable law; Dispute resolution.** The terms of this agreement will be governed by the laws of your state, without giving effect to its conflict of laws. Disputes relating to this agreement will be subject to applicable dispute resolution laws of your state.
- k. Copyright Violation.** Except as set forth in Section 11 c. above, enrolled affiliate agrees to pay for, and comply with the terms of this agreement and the product use rights, for the products it uses. Except to the extent enrolled affiliate is licensed under this agreement, it will be responsible for its breach of this contract and violation of our copyright in the products, including payment of license fees specified in this agreement for unlicensed use.

Enterprise Subscription Enrollment – State and Local

Enterprise Desktop Terms and Conditions

The following terms are required to update and amend the existing agreement to allow for the purchase of the CAL and/or step-up enterprise products which may or not have been available on the effective date of the existing Enterprise Agreement.

The terms and conditions below supplement the terms and conditions of the Enterprise Subscription Agreement version 6.4 or earlier as they apply to this enrollment. In the case of any conflict between these terms and conditions and the terms and conditions of that agreement, these terms control.

1. Definitions.

"Qualified user" means a person who accesses any Client Access License "CAL" server software licensed within an enrolled affiliate's enterprise. It does not include a person who accesses the software under an External Connector License. It also does not include a person who accesses the software in some other way that does not require a CAL.

2. **Establishing price levels.** Each product is assigned to one of the following pools: applications, servers or systems. An enrolled affiliate's prices are based on the "price level" for which it qualifies in each individual product pool. Price levels are established separately for each enrollment as described in this subsection.

Product pools from which an enterprise product has been ordered.

Generally, for each product pool from which an enrolled affiliate orders an enterprise product, the price level for the first year of its enrollment for any enterprise products or additional products from that pool will be the price level for which the enrolled affiliate qualifies based on its initial number of qualified desktops. Price levels will be reset each year of the enrollment term (including any renewal) based upon the total number of the enrolled affiliate's qualified desktops as of the date of each annual order.

When the user CAL is ordered, price levels for any enterprise products or additional products ordered from the server pool are established as follows:

- If the user CAL is ordered as part of the Enterprise Desktop Professional Platform, then that price level is set as provided in the general rule.
- If the user CAL is ordered in any other way, then the price level for the first year of its enrollment will be set based on the enrolled affiliate's initial number of qualified users. Price levels will be reset each year of the enrollment term (including any renewal) based on the total number of the enrolled affiliate's qualified users as of the date of each annual order.

Product pools from which no enterprise product has been ordered. For any product pool from which the enrolled affiliate does not order an enterprise product, the price level for additional products within that pool will be price level "A" throughout the term of the enrollment (including any renewals).

3. **Placing the initial order.** Your initial order must include L&SA for the user CAL for each qualified user.

4. **Stepping up to a higher enterprise product edition.** If an already ordered enterprise product has multiple editions, an enrolled affiliate may migrate to the higher edition by ordering the applicable step-up. If step up details are included in an initial enrollment order, then the enrolled affiliate may step-up in accordance with the section entitled "True-ups and Update statements." If the step-up details are not included in the initial enrollment order, the enrolled affiliate may step-up by placing an

order in the month the step-up is first run in accordance with the process set out in the section entitled "Adding new additional products not previously ordered."

5. Placing annual orders At each anniversary of its enrollment effective date (including anniversaries during any renewal), each enrolled affiliate must calculate the then-current number of qualified desktops and qualified users covered by the enrolled affiliate's enrollment. Each enrolled affiliate must then submit an order for L&SA within 15 days following the anniversary of its enrollment effective date for the following:

- A number of qualified desktops equal to the greater of (i) the current number of qualified desktops covered by its enrollment, or (ii) 250.
- When ordering user CALs, a number of qualified users equal to the greater of (i) the current number of qualified users covered by its enrollment, or (ii) 250.

At each anniversary, an enrolled affiliate that ordered device CALs in the prior year can instead elect to order user CALs, or vice versa. See the Product List for more information.

6. User CAL License grant - what you are licensed to run. These terms supersede the corresponding license grant in the Enterprise Subscription Agreement, solely with respect to the user CAL. Upon our acceptance of this enrollment, you have the following right during the term of this enrollment:

As long as you place annual orders for CALs as described in these terms and conditions, for any year in which you choose to license user CALs, you may allow each qualified user to access server software as specified by the user CAL. By including affiliates in your enterprise, you sublicense user CALs to each of them subject to the terms of this enrollment and the Enterprise Subscription Agreement. This user-based CAL access right does not apply during any year for which you choose to license device-based CALs.

7. Options upon completion of an initial enrollment or renewal term. We will provide each enrolled affiliate with 60 days prior written notice of expiration of its initial enrollment or renewal term. Our notice will advise the enrolled affiliate of its option to: (i) renew its enrollment, (ii) exercise its buy-out option, or (iii) allow its enrollment to expire:

- **Enrollment renewal option.** An enrolled affiliate may have the option to renew its enrollment for one term of 12 or 36 full calendar months. We and our affiliates will not unreasonably reject any renewal order. However, we may make a change to this program that will make it necessary for you and your enrolled affiliates to first enter into new agreements and enrollments.

To renew, the enrolled affiliate must submit a renewal order within 30 days after the previous term expired. The order will be for L&SA:

- (i) for enterprise products other than the user CAL, a number of qualified desktops equal to the greater of (a) the number of qualified desktops covered by its enrollment as of the date of the renewal order, or (b) 250;
- (ii) when ordering user CAL, for a number of qualified users equal to the greater of (a) the number of qualified users covered by its enrollment as of the date of the renewal order, or (b) 250; and
- (iii) for all copies of any additional products that the enrolled affiliate wishes to renew.

At renewal, an enrolled affiliate that ordered Core Device CALs in the prior year can instead order user CALs, or vice versa. See the Product List for more information.

The renewal term will start the day following expiration of the prior term. A renewing enrolled affiliate may not add new enterprise products not previously ordered. An enrolled affiliate must submit a new enrollment to license new enterprise products.

- **Buy-out option.** An enrolled affiliate may elect to obtain perpetual licenses for products licensed under its enrollment. The enrolled affiliate must submit a buy-out order at least 30 days prior to the end of the enrollment term for:

- (i) L&SA for (a) qualified desktops and qualified users covered by their enrollment that are added during the final year of the applicable initial enrollment or renewal term through the date of its buy-out order, and (b) any copies of any new additional products or copies of additional products previously ordered that the enrolled affiliate is running and for which it has not yet placed an order;
- (ii) perpetual licenses at the buy-out price for that number of copies of each enterprise product, except for Core User CAL, equal to the total number of the enrolled affiliate's qualified desktops as of the date of its buy-out order;
- (iii) perpetual licenses at the buy-out price for each Core User CAL, if ordered on the previous annual order, equal to the total number of the enrolled affiliate's qualified users as of the date of its buy-out order; and
- (iv) perpetual licenses at the buy-out price for the number of copies of additional products the enrolled affiliate elects to obtain.

For buy-out orders, the perpetual license price for each product will equal 1.75 times the current annual price as of the buy-out order date. The price level for the buy-out order will be the price level the enrolled affiliate qualified for as of the anniversary of the enrollment effective date immediately preceding the applicable expiration date. The annual price used as the basis for determining the buy-out order price could be different than the fixed annual price for the same product. The enrolled affiliate's order confirmation for the buy-out and any documentation evidencing transfers of licenses, together with proof of payment, will be its evidence of a perpetual license to run the latest version then available (or any prior version) for the copies of those products covered by the buy-out order.

- **Allow the enrollment to expire.** If the enrolled affiliate does not submit a renewal order, the enrollment will expire. Because all licenses acquired under this agreement are temporary, an enrolled affiliate will not be eligible to obtain Software Assurance for those licenses under any other program without first acquiring a perpetual license or L&SA.

BILL NO. 3902

ORDINANCE NO. _____

AN ORDINANCE APPROVING ENROLLMENT WITH MICROSOFT FOR ENTERPRISE LICENSING AND AUTHORIZING THE MAYOR TO EXECUTE THE ENROLLMENT AGREEMENT.

WHEREAS, the city has a perpetual agreement from 2007 with Microsoft Enterprise that requires enrollment in order to purchase software licensing;

WHEREAS, the City of Branson desires to enroll for Enterprise Licensing.

THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby approves the Enterprise Subscription Enrollment and authorizes the Mayor to execute the agreement in substantially the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

Microsoft | Volume Licensing

Enterprise Enrollment

State and Local

Enterprise Enrollment number
(Microsoft to complete)

Proposal ID

Previous Enrollment number
(Reseller to complete)

7981896

Earliest expiring previous
Enrollment end date

2011-01-31

¹ If consolidating from multiple previous Enrollments with Software Assurance, complete the multiple previous Enrollment form and attach it to this Enrollment. Enterprise Products can only be renewed from a Qualifying Enrollment. Additional Products can be renewed from any previous Enrollment with Software Assurance.

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as of the effective date identified in the signature form. Customer represents and warrants that it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified above.

This Enrollment consists of (1) this document, (2) the terms of the Enterprise Agreement identified on the signature form, and (3) any supplemental contact information form or multiple previous enrollment form that may be required. If Customer's Enterprise Agreement is a version 6.4 or earlier, the Desktop Terms and Conditions are incorporated by reference.

All terms used but not defined are located at <http://microsoft.com/licensing/contracts>. In the event of any conflict the terms of this agreement control.

Effective date. If Customer is renewing Software Assurance from one or more previous Qualifying Enrollments, then the effective date will be the day after the first Enrollment expires. Otherwise the effective date will be the date this Enrollment is accepted by Microsoft.

If renewing Software Assurance, the Reseller will need to insert the previous Enrollment number and end date in the respective boxes above.

Term. This Enrollment will expire 36 full calendar months from the effective date. It could be terminated earlier or renewed as provided in the Microsoft Enterprise Agreement. Microsoft will advise Customer of the renewal options before it expires.

Product order. The Reseller will provide Customer with Customer's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Customer and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

Qualifying systems Licenses. All desktop operating system Licenses provided under this program are upgrade Licenses. *No full operating system Licenses are available under this program.* If Customer selects the Desktop Platform or the Windows Desktop Operating System Upgrade & Software Assurance, all Qualified Desktops on which the Windows Desktop Operating System Upgrade must be licensed to run one of the qualifying operating systems identified in the Product List at <http://microsoft.com/licensing/contracts>. Note that the list of operating systems that qualify for the Windows Desktop Operating System Upgrade varies with the circumstances of the order. That list is more extensive at the time of the initial order than it is for some subsequent true-ups and system refreshes during the term of this Enrollment.

For example, Windows XP Home Edition or successor Products are not qualifying operating systems.

1. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Customer consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <http://licensing.microsoft.com>.

- a. **Primary contact information:** The Customer of this Enrollment must identify an individual from inside its organization to serve as the primary contact. This contact is the default administrator for this Enrollment and receives all notices unless Microsoft is provided written notice of a change. The administrator may appoint other administrators and grant others access to online information.

Name of entity (must be legal entity name)* City of Branson
Contact name* First DJ **Last** Cline
Contact email address* dcline@bransonmo.gov
Street address* 110 W Maddux STE 311
City* Branson **State *** MO **Postal code*** 65616
Country* USA
Phone* 417-337-8592 **Fax** 417-335-2746
Tax ID (if applicable) 44-6000142

- b. **Notices and online administrator:** This individual receives online administrator permissions and thus may grant online access to others. This contact also receives all notices.

☒ *Same as primary contact*

Name of entity (must be legal entity name)*
Contact name* First **Last**
Contact email address*
Street address*
City* **State *** **Postal code***
Country*
Phone* **Fax**

☐ This contact is a third party (not the Customer). **Warning:** This contact receives personally identifiable information of the Customer.

- c. **Language preference:** Select the language for notices. English
- d. **Microsoft account manager:** Provide the Microsoft account manager contact for this Customer.
- Microsoft account manager name:**
Microsoft account manager email address:

- e. If Customer requires a separate contact for any of the following, attach the Supplemental Contact Information form. Otherwise, the notices contact remains the default.

- Additional notices contact
- Software Assurance manager
- Subscription manager
- Online Services manager
- Customer Support Manager (CSM) contact

- f. Is a purchase under this Enrollment being financed through MS Financing? ☐ Yes, ☒ No.

g. Reseller information

Reseller company name* En Pointe Technologies

Street address (PO boxes will not be accepted)* 1600 Providence Highway

City* Walpole **State *** MA **Postal code*** 02081

Country* USA

Contact name * Stacie Boulay

Phone* 508-203-3021

Fax 508-660-0309

Contact email address* sboulay@endpointe.com

The undersigned confirms that the information is correct.

Name of Reseller* En Pointe Technologies

Signature* _____

Printed name* Stacie Boulay

Printed title* Contracts Manager

Date*

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with one another, Customer must choose a replacement. If Customer intends to change the Reseller, it must notify Microsoft and the former Reseller, in writing on a form provided at least 90 days prior to the date on which the change is to take effect. The change will take effect 90 days from the date of Customer's signature.

2. Defining your Enterprise.

Use this section to identify which Affiliates are included in the Enterprise. Customer's Enterprise must consist of entire government agencies, departments or legal jurisdictions, not partial government agencies, departments, or legal jurisdictions. (Check only one box in this section.)

☒ Only you (and no other affiliates) will be participating

☐ Customer and all Affiliates are included (*excluding* new Affiliates with which you consolidate in the future)

☐ The following Affiliates are excluded

3. Establishing Customer price level.

The price level indicated in this section will be the price level for the initial Enrollment term for all Enterprise Products ordered and for any Additional Products in the same pool(s). The price level for any other Additional Products will be level "D".

Qualified Desktops: Customer represents that the total number of Qualified Desktops in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 desktops).

200

Qualified Users: Customer represents that the total number of Qualified Users in its Enterprise is, or will be increased to, this number during the initial term of this Enrollment (This number must be equal to at least 250 users).

Number of desktops/ users	Price level
250 to 2,399	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

Price level (for pools in which Customer orders an Enterprise Product):	Qualified Desktop	Qualified User
	D	D

Price level (for pools in which Customer does not order an Enterprise Product):	Price level "D"
---	-----------------

4. Enterprise Product orders.

Customer must select a desktop platform or any individual Enterprise Product before it can order Additional Products. The CAL selection must be the same across the Enterprise. The components of the current versions of any Enterprise Product are identified in the Product List.

Enterprise Product Selection

Please choose the Enrolled Affiliate's desktop option (Select 1):

- ☐ Enterprise Desktop with MDOP
 ☐ Enterprise Desktop
☐ Professional Desktop with MDOP
 ☒ Professional Desktop
☐ Custom Desktop or Individual Enterprise Product Component(s):

Select at least 1 component. (For full platform, Windows Desktop, Office, and Client Access License components must all be selected.)

- ☐ Windows Desktop (Includes Windows Desktop Operating System Upgrade and Windows VDA): <Select One>
☐ Office: Office Professional Plus
☐ Client Access License: <Select One>

For any Client Access Licenses, please indicate whether licensing by Desktop or User: Desktop

Unless stated/indicated otherwise, Microsoft will invoice Customer's Reseller in 3 equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and thereafter on the anniversary of the Enrollment. All subsequent new Additional Products and true-ups are billed in full.

Program Signature Form

MBA/MBSA number

Agreement number

01E60537

SGN-

Proposal ID

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
Enterprise Enrollment	X20-01112
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity (must be legal entity name) * City of Branson	Microsoft Licensing, GP
Signature * _____	Signature
Printed Name *	Printed Name
Printed Title *	Printed Title
Signature Date *	Signature Date (date Microsoft Affiliate countersigns)

Tax ID 44-6000142

Effective Date

(may be different than Microsoft's signature date)

** indicates required field*

Optional 2nd Customer signature or Outsourcer Signature (if applicable)

Customer	Outsourcer
Name of Entity (must be legal entity name) *	Name of Entity (must be legal entity name) *
Signature * _____	Signature * _____
Printed Name *	Printed Name *
Printed Title *	Printed Title *
Signature Date *	Signature Date *

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Licensing, GP

Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Prepared By: Stacie Boulay

sboulay@endpointe.com

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF THE WORLD WIDE TECHNOLOGY PERTAINING TO COMPUTER SOFTWARE FOR CITY OF BRANSON.

FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: IT DEPARTMENT *DS*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

For better management and control, the purchase of all computer software for the city's departments is now funded out of a single account in the IT budget.

Municipalities can obtain better and lower bids on supplies by utilizing the State of Missouri's existing bidding process. By combining the purchasing power of the state along with many cities and counties, the vendors are able to supply the materials at a very low cost. The low bidder on the state contract for computer software (MO Contract #C206026001) was The World Wide Technology Company in the amount of \$31,572.00. This amount is within the 2011 budget.

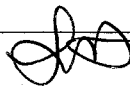
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 101-1014-510-2070



ATTACHED INFORMATION:

BILL NO. 3903

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF THE WORLD WIDE TECHNOLOGY PERTAINING TO COMPUTER SOFTWARE FOR THE CITY OF BRANSON AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, in accordance with the State of Missouri's purchasing procedures, the City of Branson is allowed to utilize the state bids for purchasing municipal equipment; and

WHEREAS, The World Wide Technology is the low bidder as determined by Missouri State Contract # C206026001 for computer software needed by the City of Branson; and

WHEREAS, the Board of Aldermen desire to award the contract for the purchase of computer software.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of The World Wide Technology pertaining to computer software in the amount of \$31,572.00 and authorizes the Mayor to execute the contract attached hereto as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this ____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2011, by and between the City of Branson, Missouri (the "City") and **World Wide Technology, Inc.** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. **Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **Microsoft Software, from a date commencing with the execution of this contract and ending December 31, 2011.**
2. **Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit A.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Thirty One Thousand Five Hundred Seventy Two Dollars (\$31,572.00).**
3. **Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **City of Branson, 110 West Maddox St., Branson, MO 65616**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. **Inspection and Acceptance.**

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. **Warranty.**

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: N/A

7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

City of Branson, Missouri

By: _____
Name: _____
Address: _____
Phone: _____
Fax: _____

By: _____
Raeanne Presley
Mayor

Tax ID: _____

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney



Exhibit "A"

January 5, 2007 11:10 AM

Page 1 of 2

Quote Number: 1308491.1

State of MO PVC-ST - C200026001

Prepared By: Frost, Majesty M.

World Wide Technology, Inc.
6 Weldon Parkway
Bryland Heights, MO 63043

Phone: 314.566.7023
Fax: 800-775-5475
Email: majesty.frost@wwt.com
O.C.: FROST, MAJESTY M.

Account Manager:
acct. Mgr. Phone:
acct. Mgr. e-mail:

Submitted Date: While, Christine
Contact: City of Branson, MO
Agency/Company: 417-337-8892
Phone: cwhile@cityofbranson.org
Fax: Microsoft Enterprise Agreement Renewal
e-mail: 1308491.1
Bid #: WWT Quote #:

Item	Description	Manufacturer	Part Number	Qty	Customer Unit Price	Extended Price	ATS (Days)
1	Microsoft Office Professional Plus - Software assurance - 1 PC - Enterprise - Win - All Languages	MICROSOFT CORPORATION	269-12442	200	\$88.08	\$17,616.00	
2	Microsoft Exchange Server - Software assurance - 1 server - Enterprise, Select, Select Plus - All Languages	MICROSOFT CORPORATION	312-02257	200	\$117.12	\$23,424.00	
3	Microsoft Windows Professional - Software assurance - 1 PC - Platform - Enterprise - All Languages	MICROSOFT CORPORATION	FOC-02460	200	\$32.36	\$6,472.00	
4	Microsoft SharePoint Portal Server - Software assurance - 1 server - EDU - Enterprise, Select, Select Plus - All Languages	MICROSOFT CORPORATION	H04-00268	1	\$815.48	\$815.48	
5	Microsoft Windows Server Standard Edition - Software assurance - 1 user - EDU - Enterprise, Select, Select Plus - All Languages	MICROSOFT CORPORATION	P73-00226	4	\$120.07	\$480.28	
6	Microsoft Core CAL - Software assurance - 1 device CAL - Platform - Enterprise - All Languages	MICROSOFT CORPORATION	W06-01069	200	\$28.77	\$5,954.00	
Sub Total:					\$31,572.00		

Subtotal: \$31,572.00
0% Contract Fee (Minimum \$0.00): \$0.00
Shipping Charges: \$0.00
Grand Total: \$31,572.00

* ATS - Available to Ship

To learn more about WWT's Cisco Authorized Training Courses, Rates, Promotions,
go online to <http://www.wwt.com/ciscotraining.html> or call WWT today at (800) 432-7008.
Please call 888-234-8888
Option #1 - SalesPlace Order



Exhibit "A"

January 5, 2019 11:13 AM
Page 6 of 6
Quote Number 1306491
State of MO P.V.C. ST = 6206026001

Option #2 - Order Status/Return
Option #3 - Service (report a trouble call)
Option #4 - Hardware Maintenance Pricing
TAXES - Prices quoted above do not include tax. Buyer acknowledges Seller will charge sales tax, in addition to prices quoted, when applicable under law. By acceptance of this Quote, Buyer accepts liability for applicable taxes and agrees to pay Seller for such taxes charged.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF AMERICAN CONCRETE PRODUCTS PERTAINING TO THE CONCRETE TO BE USED AT THE BRANSON LAKESIDE RV PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

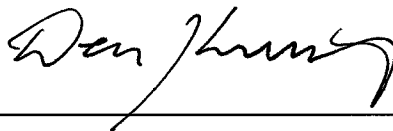
FIRST READING: JANUARY 25, 2011

FINAL READING: FEBRUARY 8, 2011

INITIATED BY: PARKS & RECREATION DEPARTMENT *CS*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Three (3) qualified bid were received on January 3, 2011 for concrete to be used at the Branson Lakeside RV Park to build RV pads for individual sites for the Branson Parks & Recreation Department. All bidders are listed as follows:

American Concrete Products	\$84.00/yard
CONCO Co. Inc.	\$88.00/yard
Table Rock Asphalt	\$91.50/yard

Bid award is recommended to American Concrete Products, who was the low bidder to meet qualifications outlined in the request for proposal. The contract is for a total amount not to exceed \$24,000.00 and is within budget.

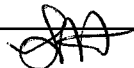
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 140-5010-510-90-11



ATTACHED INFORMATION:

BILL NO. 3904

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF AMERICAN CONCRETE PRODUCTS PERTAINING TO THE CONCRETE TO BE USED AT THE BRANSON LAKESIDE RV PARK AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for concrete for the Lakeside RV Park for the City of Branson; and

WHEREAS, of the proposals which were received American Concrete Products has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of American Concrete Products to be used at the Branson Lakeside RV Park for a total amount not to exceed \$24,000.00 and authorizes the Mayor to execute the contract in the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read this first time on this _____ day of _____, 2011.


Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2011, by and between the City of Branson, Missouri (the "City") and **American Concrete Products** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Concrete, for the Lakeside RV Park, from a date beginning with the execution of this contract and ending April 1, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Twenty Four Thousand Dollars (\$24,000.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to: **City Campground, 300 South Boxcar Willie Drive, Branson, MO 65616.**

4. Invoices. An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. Inspection and Acceptance.

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. Warranty.

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: N/A

7. Patents. Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. Bankruptcy or Insolvency. In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. Compliance with Applicable Laws. The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

City of Branson, Missouri

By: American Concrete Products
Name: American Concrete Products
Address: 719 Cedar Valley Rd
Hollister Mo. 65672
Phone: 417-338-2600
Fax: 417-337-7144

By: _____
Raeanne Presley
Mayor

Tax ID: 26-3803155

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk

W.T. Duston
William T. Duston
City Attorney

American Concrete Products
719 Cedar Valley Rd.
Hollister, MO 65672

SCOPE OF WORK

1. Purpose: To provide approximately 260 cubic yards of 4000-psi strength concrete for the Lakeside RV Park. Prices must remain firm for 120 days from the opening date of this bid.

2. General Requirements:

- 2.1 All products must be of acceptable quality. If, at any time, contractor fails to meet or correct problems involving the quality of the product, the City retains the right to cancel the contract.
- 2.2 Pricing must be a delivered price to the City job site located in Branson, MO.
- 2.3 Quantities given are estimated usage only and may be more or less depending upon demand. The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.

3. Concrete Specifications:

2003 MATERIALS. All material used in the manufacture of concrete shall conform to the following:

- A. Concrete Control and Quality. The current editions of the "Bulletins" and Approved Sections of the "Standard Concrete Specifications" issued by the Mid-West Concrete Industry Board, Inc. (MCIB) are made a part hereof by reference. However, when the provisions of such "Bulletins" and "Sections" differ from these specifications, the provisions of this Specification shall govern.

- B. Concrete. Concrete for use in construction shall conform to the requirements of Sections 2005 and 2006.

1. Cement. Portland Cement shall conform to ASTM C-150, Type I, II or III.
2. Coarse Aggregate. Coarse Aggregate shall conform MCIB Section 4 except that only limestone of the Bethany Falls or Calloway ledges may be used.
3. Fine Aggregate and Mixing Water. Fine aggregate and mixing water shall conform to MCIB Section 4.
4. Admixtures. Admixtures shall conform to MCIB Section 5 and ASTM 494.

2006 LIMITING REQUIREMENTS. Each concrete mix shall be designed and concrete shall be controlled within the following limits.

Max. Size Course Slump Aggregate	Cement Content Lbs./C.Y.	Max. Water Cement Weight Ratio	Max. Gals Water per Sack of Cement
Class II (4000psi)			
2"	1"	558 .421	4.75
3"	1"	588 .421	4.75
4"	1"	618 .421	4.75

The quantity of Portland cement shall be not less than that shown in the preceding table. The use of plasticizers in concrete mixes shall only be as approved by the Parks Department. If an approved plasticizer is utilized in the concrete mix, the cement factor shown shall be decreased ten (10) percent, or as approved by the Parks Department.

Concrete slump shall be kept as low as possible consistent with proper handling and thorough compaction. Maximum slump for Portland cement concrete shall not exceed four inches. Use of slumps in excess of those specified shall be only when authorized by the Parks Department. The use of water to obtain so-called "improved workability" shall not be permitted.

The initial set as determined by ASTM C403 shall be attained 5-1/2 hours, plus or minus one hour, after the water and cement are added to the aggregates. If such use has been approved by the Parks Department, the quantity of retarding or accelerating admixture shall be adjusted to compensate for variations in temperature and job conditions.

The admixture content shall be in accordance with the recommendations of the manufacturer for compliance with these specifications.

The total volumetric air content of concrete after placement shall be six (6) percent, plus or minus one (1) percent.

The minimum acceptable compressive strengths shall be as determined by ASTM C39.

As the work progresses, the Parks Department reserves the right to change the proportions from time to time if conditions warrant such changes to produce a satisfactory job. Any such changes may be made within the limits of the specifications at no additional compensation to the Contractor.

2007 BATCHING AND MIXING. Concrete shall be furnished by an acceptable ready-mixed concrete supplier and shall conform to ASTM C94.

The consistency of concrete shall be suitable for placement conditions. Aggregates shall float uniformly throughout the mass and the concrete shall flow sluggishly when vibrated or spaded. The slump shall be kept uniform.

The maximum load limits must not exceed the legal maximum gross weight allowed by MoDot Bridge weight limits.

PRICING PAGE

The seller must provide pricing information as specified below to provide 4000-psi strength concrete as specified in accordance with the terms and conditions of this contract.

Product	Price per cu. yd. Delivered
001. 4000-psi strength concrete (approx. 260 cu.yds.)	\$ 84.00 / cu. yd.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: RESOLUTION APPROVING THE CITY OF BRANSON'S LEGISLATIVE
AGENDA FOR THE YEAR 2011.

DATE: JANUARY 25, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend adoption of this Resolution.



STAFF REPORT:

During the upcoming legislative session, Branson officials will be contacted by legislators, the Missouri Municipal League, other cities, the press, and the media to state whether Branson supports or opposes various bills working their way through committees or scheduled for vote. Requests for support or opposition are often unscheduled, and frequently require immediate action. Passage of this Resolution will allow the City Administrator and designees to respond to such requests with confidence that they have the support of the Board.

Positions stated on the attached Legislative Agenda restate issues Branson has historically supported, including positions identified by the Municipal League, positions advocated in this year's Branson/Lakes Area Legislative Partnership and generated by input from staff and lobbyist.

As new issues arise during the legislative session, the city will maintain ongoing dialogue and regular updates, so that public positions stay consistent with the Board of Aldermen's intent.

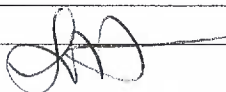
STAFF RECOMMENDATION:

Staff recommends adopting the Resolution.

PROPOSED MOTION:

Move to adopt the Resolution.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

RESOLUTION NO. _____

A RESOLUTION APPROVING THE CITY OF BRANSON'S LEGISLATIVE AGENDA FOR THE YEAR 2011.

WHEREAS, issues which effect the interests of the City of Branson will be considered by the Legislature, and laws which are passed will impact the health, safety and welfare of all of Branson's citizens; and

WHEREAS, the Board of Aldermen therefore desires to declare the City of Branson's Legislative Agenda for the year 2011.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI AS FOLLOWS:

Section 1: The Board of Aldermen of the City of Branson, Missouri hereby approves the statement of legislative policy, attached and incorporated herein as Exhibit "1", as the official position of the City of Branson, and the Board authorizes the City Administrator and designees, to actively advocate these positions on Branson's behalf to the media, the press, the legislature and any legislative committees.


ADOPTED by the Board of Aldermen of the City of Branson, Missouri, this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney



2011 Branson Legislative Agenda

Prior to the start of Missouri legislative sessions each January, the Branson Board of Aldermen create a list of legislative priorities that state issues Branson has historically supported, including positions identified by the Missouri Municipal League, positions advocated in this year's Branson/Lakes Area Legislative Partnership and positions generated by input from city staff. As new issues arise during the legislative session, the city will maintain ongoing dialogue and regular updates, so that public positions stay consistent with the Board of Aldermen's intent.

Development

Branson supports bills regarding making Missouri "data center friendly."

Branson supports both federal and state legislative initiatives that upwardly adjust the income guidelines establishing qualification thresholds for subsidized workforce housing.

Uncontrolled development at the unincorporated fringes of cities is detrimental to health, safety and orderly urban development. Branson supports legislation that would give cities the ability to exercise the extraterritorial powers of planning, zoning, enforcement of building codes and regulation of subdivisions within adjacent unincorporated areas.

Branson opposes any legislation that restricts the ability of a municipality to extend municipal services into newly annexed areas.

Branson opposes any legislation that restricts municipalities' abilities to impose franchise or user fees for the use of the municipalities' right-of-ways.

Branson supports legislation that provides funding for state agencies to work in conjunction with Missouri cities as well as private and not-for-profit organizations to address the areas of affordable housing.

Branson opposes the legalization of casino gaming in southwest Missouri.

We support legislation allowing cities to annex "islands," which are properties inside a city's limits and surrounded by city property on all sides. Cities need the ability to annex islands after proper notification and majority approval by city council.

Tourism

Branson supports appropriate funding for the Missouri Division of Tourism marketing budget.

We support increasing the tax credit given to the Missouri Film Commission

Transportation

Branson supports state and federal efforts to keep pace with pressing statewide transportation needs, especially by accelerating the construction of projects when local communities are willing to assist with the financing of road improvements.

Health

Branson supports increasing the core function funding in the state budget for local public health agencies.

Branson supports increased access to health care for all Missourians through Healthnet expansion for those who demonstrate a financial need and who qualify.

We support state funding for alcohol enforcement programs.

**Branson Board of Aldermen
Staff Report and Recommendation**


ITEM/SUBJECT: A RESOLUTION ADOPTING THE BRANSON/LAKES AREA LEGISLATIVE PARTNERSHIP'S 2011 LEGISLATIVE PRIORITIES.

DATE: JANUARY 25, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend adoption of this Resolution.



STAFF REPORT:

The City of Branson belongs to the Branson/Lakes Area Legislative Partnership Coalition. As a member of the Partnership, the city is asked to adopt the attached 2011 agenda developed by the Coalition.

While the City of Branson has formulated its own legislative priorities, there are no conflicts with the city's legislative priorities and those of the Coalition.

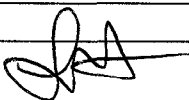
STAFF RECOMMENDATION:

Staff recommends adopting the Resolution.

PROPOSED MOTION:

Move to adopt the Resolution.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

RESOLUTION NO. _____

A RESOLUTION ADOPTING THE BRANSON/LAKES AREA LEGISLATIVE PARTNERSHIP'S 2011 LEGISLATIVE PRIORITIES.

WHEREAS, the City of Branson belongs to the Branson/Lakes Area Legislative Partnership Coalition; and

WHEREAS, issues which effect the interests of the Branson Lakes Area and City of Branson will be considered by the Legislature, and laws which are passed will impact the health, safety and welfare of all of citizens; and

WHEREAS, the Board of Aldermen therefore desires to adopt the Branson/Lakes Area Legislative Partnership's 2011 Legislative Priorities.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI AS FOLLOWS:

Section 1: The Board of Aldermen of the City of Branson, Missouri hereby adopts the Branson/Lakes Area Legislative Partnership's 2011 Legislative Priorities, attached and incorporated herein as Exhibit "1".


ADOPTED by the Board of Aldermen of the City of Branson, Missouri, this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

***Branson/Lakes Area Legislative Partnership
2011 Legislative Priorities***

- We support authorization for any additional statutory or legislative funding for the Division of Tourism.
- We propose legislation specific to our area on P & Z that would relieve the repetitious, expensive, continuous ballots on planning and zoning in Stone County. This would be accomplished by increasing signatures by a percentage at each election and/or having the initiators pay the cost of elections after the 2nd election in one year.
- We oppose the repeal of the income tax and its replacement with a state sales tax (Fair Tax).

**Branson Board of Aldermen
Staff Report and Recommendation**

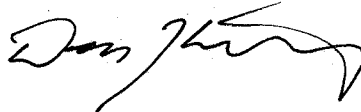
ITEM/SUBJECT: A RESOLUTION A RESOLUTION SUPPORTING THE DISPLAY OF THE NATIONAL MOTTO "IN GOD WE TRUST" AT BRANSON CITY HALL.

DATE: JANUARY 25, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend adoption of this Resolution.



STAFF REPORT:

Preston Dunn, Jr. of In God We Trust ~ America, Inc. made presentations to the Board of Aldermen during public comment of the November 9, 2010 Regular meeting and during the January 6, 2011 Study Session regarding the display of "In God We Trust" at Branson City Hall.

This Resolution formally expresses support and approval of the displaying of "In God We Trust" at City Hall.

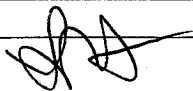
STAFF RECOMMENDATION:

Staff recommends adopting the Resolution.

PROPOSED MOTION:

Move to adopt the Resolution.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

RESOLUTION NO. _____

A RESOLUTION SUPPORTING THE DISPLAY OF THE NATIONAL MOTTO "IN GOD WE TRUST" AT BRANSON CITY HALL.

WHEREAS, "In God We Trust" became the United States national motto on July 30, 1956, shortly after our nation led the world through the trauma of World War; and

WHEREAS, the words have been used on U.S. currency since 1864; and

WHEREAS, the same inspiring slogan is engraved above the entrance to the Senate Chamber as well as above the Speaker's dais in the House of Representatives; and

WHEREAS, in both war and peace, these words have been a profound source of strength and guidance to many generations of Americans; and

WHEREAS, the Board of Aldermen desires to display this patriotic motto at Branson City Hall as a way to solemnize public occasions and express confidence in our society.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI AS FOLLOWS:

Section 1: The Board of Aldermen of the City of Branson, Missouri hereby supports the displaying of the National Motto "In God We Trust" at Branson City Hall.


ADOPTED by the Board of Aldermen of the City of Branson, Missouri, this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney